MONTANA LEGISLATIVE HISTORY

Chapter 525 19 25

Bill H _____ S 13 Original bill & history ✓ C

H. Committee on Taxation			S. Committee on Taxation		
Hearing Date(s)	Mar 11	✓ C	Hearing Date(s)	Jan 22	✓ C
	Mar 27	✓ C		Jan 29	✓ C
	_____	___ C		Jan 31	✓ C
	_____	___ C		_____	___ C
Date Out	Mar 27	✓ C		Jan 31	✓ C

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Did this bill originate in an interim committee? ___ Yes ___ No

Committee _____ Report _____

SENATE BILL NO. 13

INTRODUCED BY TOWE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TAXATION OF COAL PRODUCTION; PROVIDING FOR A SEVERANCE TAX ON COAL PRODUCED AT TWENTY-FIVE PERCENT (25%) OF VALUE; DELETING COAL FROM THE PROVISIONS TAXING THE NET PROCEEDS OF MINES; PROVIDING FOR TAXATION OF THE GROSS PROCEEDS FROM COAL AS AN ELEMENT IN THE PROPERTY TAX SYSTEM; AND REPEALING SECTIONS 84-1301 THROUGH 84-1309, 84-1309.1, 84-1310, AND 84-1311, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Legislative findings and declarations of purpose. (1) The legislature finds that while coal is extracted from the earth like metal minerals, there are differences between coal and metal minerals such that they should be classified in different categories for taxation purposes. The legislature finds that while coal can be utilized like petroleum products, there are differences between coal and petroleum such that they should be classified in different categories for taxation purposes. The legislature further finds that:

(a) coal is the only mineral which can supply energy while being easily found in abundance in Montana;

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(b) coal is the only mineral which is so often marketed through sales contracts of many years' duration;

(c) coal, unlike most minerals, varies widely in composition and consequent value when marketed;

(d) coal in Montana is subject to regional and national demands for development which could affect the economy and environment of a larger portion of the state than any other mineral development has done;

(e) coal in Montana, when sub-bituminous and recoverable by strip mining, is in sufficient demand that between one-fourth (1/4) and one-third (1/3) of the price it commands at the mine may go to the economic rents of royalties and production taxes;

(f) coal in the lignite form is in less demand and producers of lignite are able to pay lesser amounts of royalty and production tax than producers of sub-bituminous can pay;

(g) coal produced in underground mines has higher production costs and underground producers are able to pay lesser amounts of royalty and production tax than strip-mine producers can pay;

(h) coal production in Montana has been subject to an uncoordinated array of taxes which overlap one another and yield revenue in an inconsistent and unpredictable manner.

(2) The legislature declares that the purposes of this

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chapter are:

(a) to allow the severance taxes on coal production to remain a constant percentage of the price of coal;

(b) to stabilize the flow of tax revenue from coal mines to local governments through the property taxation system;

(c) to simplify the structure of coal taxation in Montana, reducing tax overlap and improving the predictability of tax projections; and

(d) to accomplish the foregoing purposes by establishing categories of taxation which recognize the unique character of coal as well as the variations found within the coal industry.

Section 2. Definitions. As used in this chapter -- (1) "Contract sales price" means either (a) the price of coal extracted and prepared for shipment f.o.b. mine, including reserves collected for payment of taxes subsequently determined, but not including any tax on the coal which is not determined at the time of sale and for which the seller does not collect reserves at the time of sale, or (b) a price imputed by the department under section 7 of this act.

(2) "Energy conversion process" includes any process by which coal in the solid state is transformed into slurry, gas, electric energy, or any other form of energy.

(3) "Produced" means severed from the earth.

(4) "Strip mining" or "surface mining" is defined in section 50-1036.

(5) "Underground mining" means a coal mining method utilizing shafts and tunnels, and not regulated under section 50-1039.

(6) "Ton" means two thousand (2,000) pounds.

(7) "Department" means the department of revenue.

Section 3. Severance tax -- rates imposed -- exemptions. A severance tax is imposed on each ton of coal produced in the state, in accordance with the following schedule:

Heating quality (Btu per pound of coal):	Surface Mining	Underground Mining
Under 7,000	12 cents or 25% of value	5 cents or 3% of value
7,000-8,000	22 cents or 25% of value	8 cents or 4% of value
8,000-9,000	34 cents or 25% of value	10 cents or 4% of value
Over 9,000	40 cents or 25% of value	12 cents or 4% of value

The formula which yields the greater amount of tax in a particular case shall be used at each point on this schedule. "Value" means the contract sales price. A person

who produces less than one thousand two hundred fifty (1,250) tons of coal in a quarter-year is not liable for any severance tax on that production.

Section 4. Quarterly statement and payment of tax. Each coal mine operator shall compute the severance tax due on each quarter-year's worth of production on forms prescribed by the department. The statement shall indicate the tonnage produced, the average Btu value of the production, the contract sales price received for the production, and such other information as the department may require. The completed form in duplicate, with the tax payment, shall be delivered to the department not later than thirty (30) days following the close of the quarter. The form shall be verified by an officer of the coal mine operator. A person operating more than one coal mine in this state may include all of his mines in one statement.

Section 5. Annual testing of samples. The Montana state bureau of mines and geology shall test coal production subject to this chapter and may make rules governing the collection of test data. A person subject to this chapter shall submit to the bureau on or before August 1 each year a sample of mine run "as is" coal from each mine producing that year. Additional samples shall be submitted at the request of the bureau. The bureau shall compute the Btu per pound of each sample received and forward this information

to the department prior to September 1 each year.

Section 6. When value of coal may be imputed; procedure. In a case where

(a) the operator of a coal mine is using the produced coal in an energy conversion process, or

(b) a person sells coal under a contract which is not an arm's-length agreement, or

(c) a person neglects or refuses to file a statement and tax return under this chapter, the department may impute a value to the coal which approximates market value f.o.b. mine. When imputing value, the department may apply the factors used by the federal government under 26 U.S.C. section 613, or that provision as it may be labelled or amended, in determining gross income from mining, or the department may apply any other or additional criteria it considers appropriate. Each subject taxpayer shall, upon request by the department, furnish a copy of its federal income tax return, with any amendments, filed for the year in which the value of coal is being imputed and copies of the contracts under which it is selling coal at the time. When the department's estimate of market value is contested in any proceeding, the burden of proof is on the contesting party.

Section 7. Disposition of revenue. Severance taxes collected under this chapter are allocated as follows:

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(1) To the county general fund from which coal was mined three cents (3¢) per ton; and

(2) The balance to the general fund of the state.

Section 8. Reporting gross proceeds from coal. Each person engaged in mining coal must, on or before March 31 each year file with the department a statement of the gross yield from each coal mine owned or worked by such person in the preceding calendar year, and the value thereof. The statement shall be in the form prescribed by the department of revenue, which may be coordinated with the form used under section 5 of this act, and must be verified by an officer of the firm. The statement shall include:

(1) The name and address of the owner or lessee or operator of the mine.

(2) The location of the mine.

(3) The tons of ore extracted, treated, and sold from the mine during the taxable period.

(4) The gross yield or value in dollars and cents derived from the contract sales price.

Section 9. Transmission of gross proceeds from coal to county assessor. On or before July 1 each year the department shall transmit to the county assessor of each county in which coal mines are situated, the valuation of the gross proceeds of such mines for the purpose of taxation, as the same have been determined by the

department. The county assessor shall immediately enter the same upon a suitable assessment roll, the form of which shall be prescribed by the department.

Section 10. Taxation of gross proceeds from coal. The county assessor shall prepare from the reported gross proceeds from coal a tax roll, which he shall transmit to the county treasurer on or before September 15 each year. The county treasurer shall proceed to give full notice thereof to each coal producer and to collect the taxes due within sixty (60) days after mailing.

Section 11. Lien of tax -- enforcement of payment. The tax on gross proceeds from coal shall be levied as taxes on other forms of property, and this tax and the severance tax on coal production are each a lien upon the coal mine and a prior lien upon all personal property and improvements used to produce the coal. These taxes may be collected by the seizure and sale of the personal property on which the tax is a lien, as provided under sections 84-4202 through 84-4211, or by suit under sections 84-4301 through 84-4302.

Section 12. Penalties for neglect or false statement. A person who fails, neglects, or refuses to file any statement required under this chapter, or who makes a false statement commits a misdemeanor. A person convicted under this section shall be fined not to exceed one thousand dollars ($1,000) or be imprisoned in the county jail for any

term not to exceed six (6) months, or both.

Section 13. Section 84-301, R.C.M. 1947, is amended to read as follows:

"84-301. Classification of property for taxation. For the purpose of taxation the taxable property in the state shall be classified as follows:

Class One. The annual net proceeds of all mines and mining claims, except coal mines, after deducting only the expenses specified and allowed by section 84-5403; also where the right to enter upon land, to explore or prospect, or dig for oil, gas, coal or mineral is reserved in land or received by mesne conveyance (exclusive of leasehold interests), devise or succession by any person or corporation, the surface title to which has passed to or remains in another, the state department of revenue shall determine the value of the right to enter upon said tract of land for the purpose of digging, exploring, or prospecting for gas, oil, coal or minerals, and the same shall be placed in this classification for the purpose of taxation.

Class Two. All agricultural and other tools, implements and machinery, gas and other engines and boilers, threshing machines and outfits used therewith, automobiles, motor trucks and other power-driven cars, vehicles of all kinds except mobile homes, boats and all watercraft, harness, saddlery and robes and except as provided in Class

Five (b) of this section, all poles, lines, transformers, transformer stations, meters, tools, improvements, machinery and other property used and owned by all persons, firms, corporations, and other organizations which are engaged in the business of furnishing telephone communications, exclusively to rural areas, or to rural areas and cities and towns provided that any such city or town has a population of eight hundred (800) persons or less; and provided further, that the average circuit miles for each station on the system is more than one and one-quarter (1 1/4) miles.

Class Three. Livestock, poultry and unprocessed products of both; stocks of merchandise of all sorts, together with furniture and fixtures used therewith, except mobile homes; the annual gross proceeds of underground coal mines; and all office or hotel furniture and fixtures.

Class Four. (a) All land, town and city lots, with improvements, and all trailers affixed to land owned, leased, or under contract or purchase by the trailer owner, manufacturing and mining machinery, fixtures and supplies, except as otherwise provided by the constitution of Montana, and except as such property may be included in Class Five, Class Seven or Class Eight.

(b) Mobile homes without regard to the ownership of the land upon which they are situated, except those held by a distributor or dealer of mobile homes as part of his stock

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in trade, and except as such property may be included in Class Eight.

Class Five. (a) All moneys and credits, secured or unsecured, including all state, county, school district and other municipal bonds, warrants and securities, without any deduction or offset; provided, however, that the terms "moneys and credits" as herein used shall not embrace the moneyed capital employed in the banking business by any banking corporation or individual in this state.

(b) All poles, lines, transformers, transformer stations, meters, tools, improvements, machinery and other property used and owned by co-operative rural electrical and co-operative rural telephone associations organized under the laws of Montana except those within the incorporated limits of a city or town in which less than ninety-five per cent (95%) of the electric consumers and/or telephone users are served by a co-operative organization, and as to the property enumerated in this subsection (b) within incorporated limits of a city or town in which less than ninety-five per cent (95%) of the electric consumers or users will be served by a co-operative organization, such property shall be put in Class Two.

(c) All unprocessed agricultural products either on the farm or in storage, irrespective of whether said products are owned by the elevator, warehouse or flour mill owner or

company storing the same, or any other person whomsoever, except all perishable fruits and vegetables in farm storage and owned by the producer, and excepting livestock and poultry and the unprocessed products of both.

(d) The dwelling house, and the lot on which it is erected, owned and occupied by any resident of the state, who has been honorably discharged from active service in any branch of the armed forces, who is rated one hundred per cent (100%) disabled due to a service-connected disability by the United States veterans administration or its successors.

In the event of the veteran's death, the dwelling house, and the lot on which it is erected, so long as the widow remains unmarried and the owner and occupant of the property, shall remain within this classification.

Class Six. Property formerly included in this class is now classified by section 84-308, R.C.M. 1947.

Class Seven. (a) All new industrial property. New industrial property shall mean any new industrial plant, including land, buildings, machinery and fixtures which, in the determination of the state department of revenue, is used by a new industry during the first three (3) years of operation not having been assessed prior to July 1, 1961, within the state of Montana. New industry shall mean any person, corporation, firm, partnership, association, or

other group which establishes a new plant or plants in this state for the operation of a new industrial endeavor, as distinguished from a mere expansion, reorganization, or merger of an existing industry or industries. Provided, however, that new industrial property shall be limited to industries that manufacture, mill, mine, produce, process or fabricate materials, or do similar work in which capital and labor are employed and in which materials unserviceable in their natural state are extracted, processed or made fit for use or are substantially altered or treated so as to create commercial products or materials; and in no event shall the term new industrial property be included to mean property used by retail or wholesale merchants, commercial services of any type, agriculture, trades or professions. And provided further, that new industrial property shall not be included to mean property which is used or employed in any industrial plant which has been in operation in this state for three (3) years or longer. Any person, corporation, firm, partnership, association or other group seeking to qualify its property for inclusion in this class shall make application to the state department of revenue in such manner and form as may be required by said department.

Class Eight. Any improvement on real property, trailers affixed to land or mobile home belonging to any person who qualifies under any one or more of the

hereinafter set forth categories, valued at not more than seventeen thousand five hundred dollars ($17,500), which is owned or under a contract for deed, and which is actually occupied by:

(1) a widow sixty-two (62) years of age or older, whether with or without minor dependent children, who qualifies under the income limitations of (4), or

(2) a widower sixty-five (65) years of age or older, whether with or without minor dependent children, who qualifies under the income limitations of (4), or

(3) a widow with minor or dependent children regardless of age, who qualifies under the income limitations of (4), or

(4) a recipient of retirement benefits whose income from all sources is not more than four thousand dollars ($4,000) for a single person and five thousand two hundred dollars ($5,200) for a married couple per annum. Provided, further, that one who applies for classification of property under this class must make an affidavit to the state department of revenue on a form as may be provided by the state department of revenue supplied without cost to the applicant, as to his income, if applicable, as to his retirement benefits, if applicable, or, as to his marital status, if applicable, and to the fact that he or she actually occupies such improvements with right of the county

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welfare board to investigate the applicant, on the completion of the form, as to answers given on the form. Provided, further, that the value of said property shall not increase during the life of the recipient of retirement benefits or widow or widower covered under this class. For purposes of the affidavit required for classification of property under this class, it shall be sufficient if the applicant signs a statement swearing to or affirming the correctness of the information supplied, whether or not the statement is signed before a person authorized to administer oaths, and mails the application and statement to the department of revenue. This signed statement shall be treated as a statement under oath or equivalent affirmation for purposes of section 94-7-203, R.C.M. 1947, relating to the criminal offense of false swearing.

Class Nine. The annual gross proceeds of coal mines using the strip mining method.

Class ~~Nine~~-Ten. All property not included in the ~~eight (8)~~ nine (9) preceding classes."

Section 14. Section 84-302, R.C.M. 1947, is amended to read as follows:

"84-302. Basis for imposition of taxes. As a basis for the imposition of taxes upon the different classes of property specified in the preceding section, a percentage of the true and full value of the property of each class shall

be taken as follows:

Class 1. One hundred per cent (100%) of its true and full value.

Class 2. Twenty per cent (20%) of its true and full value.

Class 3. Thirty-three and one-third per cent (33 1/3%) of its true and full value.

Class 4. Thirty per cent (30%) of its true and full value.

Class 5. Seven per cent (7%) of its true and full value.

Class 6. As specified in section 84-308, R.C.M. 1947.

Class 7. Seven per cent (7%) of its true and full value.

Class 8. Fifteen per cent (15%) of its true and full value.

Class 9. Forty per cent (40%) of its true and full value.

Class 10. Forty per cent (40%) of its true and full value."

Section 15. Section 84-5402, R.C.M. 1947, is amended to read as follows:

"84-5402. Net proceeds tax--statement of yield, penalty, extension of time. Every person, partnership, corporation, or association, engaged in mining, extracting

or producing from any quartz vein or lode, placer claim, dump or tailings, or other place or sources whatever, precious stones or gems, gold, silver, copper, ~~coal,~~ lead, petroleum, natural gas, or other valuable mineral, except coal, must on or before the thirty-first day of March of each year make out a statement of the gross yield of the above-named metals or minerals from each mine owned or worked by such person, corporation or association during the year preceding the first day of January of the year in which such statement is made, and the value thereof. Such statement shall be in the form prescribed by the state department of revenue, and must be verified by the oath of such person or the manager, superintendent, agent, president or vice-president of such corporation, association or partnership, and must be delivered to the state department of revenue on or before the thirty-first day of March. Such statement shall show the following:

1. The name and address of the owner or lessee or operator of the mine, together with the names and addresses of any and all persons, corporations, or associations owning or claiming any royalty interest in the mineral product of such mine or the proceeds derived from the sale thereof, and the amount or amounts paid or yielded as royalty to each of such persons, corporations or associations during the period covered by the statement.

2. The description and location of the mine.

3. The number of tons of ore, barrels of petroleum, cubic feet of natural gas or other mineral products or deposits extracted, produced, and treated or sold from the mine during the period covered by the statement.

4. The amount and character of such ores, mineral products or deposits, and the yield of such ores, mineral products or deposits from such mine in constituents of commercial value; that is to say, the number of ounces of gold or silver, pounds of copper or lead, ~~tons of coal,~~ barrels of petroleum or other crude or mineral oil, cubic feet of natural gas or other commercially valuable constituents of said ores or mineral products or deposits measured by standard units of measurement, yielded to such person, corporation or association so engaged in mining, and to said royalty holders and each of them, if any, during the period covered by the statement.

5. The gross yield or value in dollars and cents.

6. Actual cost of extracting same from mine.

7. Actual cost of transporting to place of reduction or sale.

8. Actual cost of reduction or sale.

9. Actual cost of marketing the product and conversion of same into money.

10. Cost of construction, repairs and betterments of

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mines, and cost of repairs and replacements of reduction works.

11. The assessed valuation of reduction works for the calendar year for which such return is made.

12. Actual cost of fire insurance and workmen's compensation insurance.

If any person shall fail, neglect or refuse to file the statement required by this section within the time required, or within any extended period of time allowed, the state department of revenue when transmitting the net proceeds valuations to the counties shall inform the county assessor of such failure, neglect or refusal and the county assessor in addition to the net proceeds tax, if any, shall assess a penalty of 2/3 of 1% of such tax for each calendar month or fraction thereof that the required statement is not filed, deducting therefrom any moneys collected by the state department of revenue required by this section. The state department of revenue shall assess a penalty of $25 for each calendar month or fraction thereof, not exceeding four months, that the required statement is not filed, to be collected by the state department of revenue and deposited to the credit of the general fund of the state of Montana.

The state department of revenue shall, upon a showing of reasonable cause, grant an extension of time for filing the statement required by this section. This penalty shall

be in addition to penalties provided in section 84-5410."

Section 16. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 17. Repealer. Sections 84-1301 through 84-1309, 84-1309.1, 84-1310, and 84-1311, R.C.M. 1947, are repealed.

-End-

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

January 22, 1975

The seventh meeting of the Taxation Committee was called to order on the above date in Room 415 of the State Capitol Building at 8:10 a.m. In the absence of Chairman Watt, vice chairman Healy presided.

ROLL CALL: Roll call found all members present with the exception of the Chairman. Ex-officio member McOmber was also present.

The following witnesses were present:

S.L. Groff -State Geologist
Gene Phillips - Pacific Power & Light and Decker Coal Co.
G.T. Krempasky - U.S. Bureau of Mines
Gary Leister - Aide
Jeff Langton - Intern
Jack Carlson - Divide Coal Mining Co.
Lonny Mayer - Retail Clerks Union
Robert E. Mogen - Rosebud County Commissioners
Ray Woodriff
Sarah E. Bowler
Calvin Wahl - Forsyth Public Schools
Edward Mares - Montana Assoc. of Counties
Dorothy Eck - State - Local Coordinator
John Moreland - Rosebud County Commissioner
Ed McCaffree "
Kit Muller - Northern Plains Resource Council
Everett Snortland - Montana Farm Bureau
Pat Hooks - Montana Coal Council
Bob Corette - Western Energy Co.
Leonard Sargent - Environmental Info. Center
Phil Tawney "
James W. Murry - Mont. State AFL-CIO
George L. Hammond - Amer. Federation of State, County & Municipal Employees, AFL-CIO
Clyde Jarvis - Montana Farmers Union
Alan Taylor - Dept. of Revenue
Ken Morrison - "
Richard Bourke - Environmental Quality Council
Marvin V. Koski - Shell Oil Co.
Jack Rehberg - Mont. Petroleum Assoc.

CONSIDERATION OF SENATE BILL 13: Senator Towe introduced his bill which he said was the product of a subcommittee on Fossil Fuel Taxation which was held this summer. He said that though coal prices had nearly doubled in the past year, the tax has remained the same and he felt the state should receive greater revenue from the coal; though the price of the coal was going up, the net proceeds were going down. He explained several points of his bill pointing out that there should be no price pyramiding.

He continued, stating the wealth in coal has not been transferred to the areas where the coal is produced. He distributed some material, Exhibits 1 and 2 attached, saying the large coal companies owned land in coal producing counties but did not pay a fair share of the tax. He said the counties need the extra revenue for school districts, for their roads, extra law enforcement. He introduced other proponents to the bill:

James Murry, testimony Exhibit 3 attached.
George Hammond, " Exhibit 4 "
Lonnie Mayer, " Exhibit 5 "
Clyde Jarvis, " Exhibit 6 "
Ray Blehm, " Exhibit 7 "
Richard Burke, " Exhibit 8 "

Senator Miles Romney of District 46 appeared as a small businessman, and said he would support the bill and would vote for it if he had the opportunity to do so.

Ray Woodriff, testimony Exhibit 9 attached.
Sarah E. Bowler, " Exhibit 10 "
Kit Muller

Senator Manning spoke also and said he agreed with part of the bill but felt that more of the money should go to the local government of the impact areas. He said the local governments are feeling the full impact of the problems and he hoped Sen. Towe would be flexible enough to see that amendments must be made to the bill.

Vice chairman asked for other proponents to the bill, subject to the time limit previously set, and there being no others present wishing to speak, opened the meeting for the opponents.

Pat Hooks was first to speak and presented Exhibits 11, attached, and 12, copy of which is in the file. His testimony included figures showing the taxes paid by the coal industry at the present, and also he stated that the proposed legislation would bring about cost spiraling through taxing on taxes.

Gene Phillips was next to speak and he too stated that the bill would bring about cost spiraling in taxation. He stated taxes in both Wyoming and Montana are increasing but are much higher at present here.

Bob Corette distributed testimony also, Exhibit 13, copy attached, and said they thought the 25% tax much too high.

Calvin Wahl then spoke saying he objected to the taxes going to the State of Montana, and further, that the impact area needed assistance immediately for schools, roads, law enforcement and other needs. He cited increased enrollment in the Forsyth Schools and increased costs, resulting in larger mill levies for taxpayers and felt the impact area needed the revenues more than the State, or the proposed research fund. He said people come down to see the grass growing around the mines and see the reclamation program is working, but he said no one comes down to the school to see their problem.

Robert Mogen was next to speak and said he thought it was a pretty good bill but he too thought that the need to help schools, police departments and roads in the areas affected, was the most important need. He said taxes had to be raised in the impact

areas and he felt the counties affected by the coal industry should have a larger share of the taxes.

Next to speak was S.L. Groff who stated he was neutral in the matter, but thought the attention of those involved should be directed to the state's future. He thought Montana should not move too fast in the matter of coal taxing and thought the states should work together so one state could not be played against the other in the matter of taxing. He cited the Williston Oil Basin as an example saying expansion of the oil industry had stopped there because of tax problems. He warned the Legislature that much depends on them as to the coal mined in the next years. He said also that Montana is rich in natural resources and that care should be taken to see they are protected.

Written testimony was introduced from Michael Pichette, Executive Director Montana Democratic Party, Exhibit 15, attached; also testimony from Jack Carlson-Divide Coal Mining Co., Exhibit 16, copy attached.

Vice chairman Healy then allowed rebuttal by Sen. Towe who said his two companion bills, SB 86 and 87 would set aside a percentage of the revenue for the counties affected. Further, he repeated his earlier testimony and illustrated at the board there would be no cost spiraling as the opponents claimed. He further stated Montana was not in competition with Wyoming and North Dakota, but in fact were meeting with legislators from N. D. this weekend (Sens. Towe and Mathers will be at the meeting) to discuss coal tax legislation. He further stated there is sufficient demand for coal and only lack of transportation is keeping more coal from being shipped out of the state.

Following his conclusion, vice chairman Healy concluded by opening the meeting for questions by committee members, but due to the lengthy meeting questioning must await a future meeting. Meeting was adjourned.

John Healy

JOHN HEALY VICE CHAIRMAN

ROLL CALL

TAXATION COMMITTEE

44th LEGISLATIVE SESSION - - 1975 Date 1/22

NAME	PRESENT	ABSENT	EXCUSED
SEN. HEALY	✓		
SEN. BROWN	✓		
SEN. MANNING	✓		
SEN. MATHERS	✓		
SEN. NORMAN	✓		
SEN. TOWE	✓		
SEN. TURNAGE	✓		
CHAIRMAN WATT		✓	
SEN. McOMBER	✓		

Billings Gazette, 27 June 74 p 12

(1)

Coal firms avoid taxes

By REGINALD STUART
(c) New York Times

PETROS, Tenn. — For decades this small Morgan County community in the mountains of East Tennessee and many others like it have been known for the coal they produce and the poverty they harbor. Somehow, much of the fortune of coal mining never reached the multitudes of local citizens the way the poverty did.

And in recent months a few of the reasons as to why have come to light.

COAL AND LAND are the largest commodities in the area. But until recently the coal landowners and coal-mining companies paid very little into the local county tax purses in exchange for what they have taken away.

Recent research into the ownership of land in a five-county area in this region of central Appalachia indicated that companies and corporations controlled 34 per cent of the land in those counties in 1970, but paid only 3.6 per cent of the property taxes.

Half of the companies holding these large parcels of land are based outside the state of Tennessee — one in Britain.

THE RESEARCHERS, sponsored by a student health group on Nashville, also made two other important findings, which state and county officials have not refuted.

First, despite a provision in the Tennessee Constitution stating that "all property, real, personal or mixed, shall be subject ot taxation," minerals, such as coal, had not been taxed before 1972 by counties in this region of the state.

Secondly, in many instances taxes were not being collected on all personal property (trucks, bulldozers and other mining equipment) of coal-mining companies because incomplete tax reports were being accepted by county tax assessors without being checked for accuracy.

This was attributed to understaffed county tax offices, tax officials with minimum expertise in this field and some alleged instances of looking the other way.

The researchers, headed by John Gavento, a Rhodes Scholar, found nearly the same situations in each of Tennessee's five major coal-producing counties — Anderson, Campbell, Calaiborne, Morgan and Scott — all situated in this upper east Tennessee area.

SIMILAR RESEARCH by the same group in Kentucky, Virginia and West Virginia coal-mining regions found many situations similar to those in Tennessee — centralized corporate control of large parcels of land, low property taxes and environmental destruction.

"If we can't get them to stop strip mining and stop tearing up the environment, then we want them to pay their way," said J. W. Bradley, who lives in Petros.

Bradley, 43 years old, was an organizer in 1971 of Save Our Cumberland Mountains, a group that was started to protest what it described as the low taxation of coal land and companies as well as the devastation of the mountain country here.

But in nearby Clinton, an industry spokesman differs with Bradley and his constituents.

"WE PAY ALL the taxes that courthouse across the street tells us to," said Exter Raines, manager of the Tennessee Land and Mining Co., a land holding company. His company, owned by a Connecticut family trust, has more than 50,000 acres of land in four counties.

Raines, who is also spokesman for the Independent Coal Operators Association of Tennessee, said coal landowners and mining companies are being "suppressed just like the colored people," and "unjustly criticized."

"Everything would work out fine if people would just leave us alone and let us get our work done," he added.

THE LAND COMPANY that has been criticized most is the American Association, Ltd., which is based in London. Like other large land-holding companies, American Association does not mine for coal but leases its land for mining by others.

It owns about 50,000 acres of land in Claiborne and Campbell counties, and according to Dun & Bradstreet its total land-holding in the region is 80,000 acres.

In addition to being a major absentee landowner in the region, American Association is alleged to be a major slumlord.

In response to inquiries about criticism from local residents, A. E. Funk Jr., American's local general manager, rejected a request for an interview.

"I've been interviewed for six damned years on this situation, on this same repetitious stuff, and you can just say I refused to be interviewed and I'm just damned tired of this stuff," he said.

"WE DON'T SET the taxes," Funk added, "the tax assessor, the state tax office and the independent assessors set the taxes. You have a group of people who have been sent here from Brooklyn, London and all over who are just opposed to strip mining. It's always the same story and it has no validity whatsoever."

Tax records show that in 1970 the American Association paid $19,881 in property taxes on some 45,000 acres of land it owned in Claiborne County in Tennessee.

That was less than 50 cents an acre.

Coal prices soar; up 400% in year

Billings Gazette 3/17/74

(C) New York Times

NEW YORK — The price of coal has advanced sharply in recent months as the nation's electric utilities, faced with a possible coal strike this fall and increased demand for coal from foreign buyers, have scrambled to maintain their stockpiles.

In some cases, the price has risen as much as $45 a ton.

The rush on the open coal market, referred to in the industry as the spot coal market, has seen a near quadrupling of the price within a year's time, with most of the cost being passed on to consumers through fuel-cost pass-on provisions on their bills and the rest absorbed by the electric companies themselves.

LOW-SULPHUR STEAM coal, the kind that is used to generate electrical energy, sold for as little as $8 a ton this time a year ago on the spot coal market, which supplied about 20 per cent of the coal used by electric utilities last year.

Recently, that same coal cost the Niagara Mohawk Power Co. of Syracuse $39.50 before freight delivery costs were added. Afterward it cost $43.36.

Although figures regarding total purchases on the spot coal market by Niagara were not readily available, an official there said the amount was minimal in comparison with total coal purchased.

BUT THE PRICE Niagara has been paying for coal on the spot market is similar to the price a number of other electric utilities have been charged and say they expect to be charged at least for the rest of the year. Contract coal prices meanwhile, remain much lower, and in February, according to the Federal Power Commission, were only half the price of spot prices, $20.57 compared to $10.40.

"Everybody's been watching oil and nobody's been watching coal where the price is getting outrageous," said Donald Cook, chairman of the American Electric Power Co., the nation's largest private producer of electric power.

"WE HAVE PAID over $32 a ton on the spot coal market and upon delivery $40," said Cook, "and when it got up to $40 in actual price we decided it was enough for us and decided to turn to our stockpile."

American electric, which owns companies supplying power to Ohio, Indiana, Michigan, Virginia, Tennessee, West

(Turn to Coal on P. 4)

2

Coal prices soar

FROM PAGE 1

Virginia and Kentucky, normally keeps a 40-day supply of coal on the ground.

Cook said that, for the week ended Aug. 7, the supply was down to 73 days. For several other companies, the stockpile of coal is even less, with one company down to 30 days.

THE SURGE IN the price of steam coal sold on the spot market was precipitated by several factors. There had been a slight increase in the demand for coal before the Middle East oil embargo of last fall, some industry officials said. But the demand was being sufficiently met by production in the contract coal market.

The oil embargo, however, touched off a shock wave in the electric utility business, and several big utilities, such as Consolidated Edison, serving New York, began to crowd the coal market in response to suggestions from the federal government to convert to coal and anticipation that coal would be the main energy source in the future.

The price on the spot market began to climb.

THE SECOND BIG factor was the increased activity in the nation by foreign buyers who were willing to pay "almost anything" for coal on the spot coal

The p[illegible]

The more [illegible] of [illegible] coal miners strike served to cr[illegible] and the highest [illegible] has been winning since

REPRODUCED FROM
DETERIORATING COP

(3)

MONTANA STATE AFL-CIO
APRIL 29 1956

Box 1176, Helena, Montana

JAMES W. MURRY
EXECUTIVE SECRETARY

ZIP CODE 59601

405 NORTH LAST
CHANCE GULCH

REMARKS OF JAMES W. MURRY ON SENATE BILL 13, HEARINGS OF SENATE TAXATION COMMITTEE, JANUARY 22, 1975

For a number of years now, the Montana State AFL-CIO has actively sought just taxation of the coal resources of this state. And there are many reasons for that.

First, we are well aware that a vast treasure stretches across the eastern part of Montana not too very far beneath the surface of the land. That is our collective treasure, a treasure nature has blessed us with.

Individual entrepeneurs or huge companies that wish to exploit that treasure for their profit must be made to share it with all the people of the state. That is only right and just.

Secondly, we read last fall that eastern utility companies were complaining bitterly because western coal prices were up 400 percent over the past year. We doubt that coal taxes were up a tenth as much.

So this bill espouses a concept that appeals to the Montana State AFL-CIO, as you can see by the resolutions of our convention, that we have submitted to you.

What is important here is not the percentage of the sale price of the coal that the state decides is its rightful due, what is important is the recognition that our state has a share in each and every ton of our coal sent off from the mines to energy producing centers, whether they be in this state or another.

The current charge on the BTU level of the coal doesn't do that adequately, not at all. That is clearly shown by the fiscal note attached to Senate Bill 13.

Surely, I need not tell this committee that the state needs new revenues. You deal with that problem every day. We believe Senate Bill 13 provides a just way to obtain those revenues, since it merely asks that a fair share of the wealth of the state be returned to the state so that it can perform the services needed by all those fortunate enough to be Montanans.

The bill recognizes that the coal is everbody's coal just as surely as our Big Sky is everyone's sky -- and that everbody should benefit from it. We support that concept and we urge approval by this committee of Senate Bill 13.

PRINTED ON UNION MADE PAPER

MONTANA STATE AFL-CIO
APRIL 29 1956

Box 1176, Helena, Montana
ZIP CODE 59601

JAMES W. MURRY
EXECUTIVE SECRETARY

LUNDY SHOPPING CENTER
MISSOULA HIGHWAY

RESOLUTION PASSED BY THE SEVENTEENTH ANNUAL CONVENTION OF THE MONTANA STATE AFL-CIO, AUGUST 16-18, 1973

RESOLUTION NO. 38

WHEREAS, the Executive Board of the Montana State AFL-CIO at its regular meeting, December 18, 1973, did approve a resolution presented by Operating Engineers Local 400 wherein was asked:

> "We request the 1973 Legislature to give the highest possible priority to the immediate drafting of strip-mining land and water restoration 'ground rules' which will preserve the environmental values and thereby eliminate the need for any moratorium in the orderly development of this immense resource," and

WHEREAS, The Executive Board did further implement the intent of our resolution by adopting the policy position to guide the lobby of the Montana State AFL-CIO:

> "We request the higest priority to be given to the immediate drafting of 'ground rules' governing the restoration of coal stri-mined lands and the preservation of present air and water qualities, thereby permitting the uninterrupted development of the coal resource. This positive step we believe to be the only alternative to the demand for a moratorium, or legal action to enjoin further extraction until strict environmental safeguards are enacted and enforced," and

WHEREAS, the lobby of the Montana State AFL-CIO did seek to achieve the positive action so required by Local 400 and ordered by the AFL-CIO's Executive Board, and

WHEREAS, the Montana State AFL-CIO's position on this question of public policy has been widely acclaimed including being publicy saluted by Lieutenant Governor Bill Christiansen head of the Governor's select commission on coal development, who has stated that Montana's strong new reclamation law "would not have passed without the principled stand of Montana Labor unions," and

WHEREAS, this "principled stand' has ensured far greater employment in the industry than would have been the case if the strip-mining companies were not required to restore and preserve the land and water qualities following mining operations, and did thereby effectively sidetrack much of the earlier legislative support expressed for a moratorium.

(continued...)

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BE IT RESOLVED, that the Montana State Branch of the Operating Engineers strongly supports the new law and insists it be effectively administered to ensure the orderly development of our coal resource without interruptions, whether by a legislatively-ordered moratorium or by court action, and

BE IT FURTHER RESOLVED, that we commend the lobby of the Montana State AFL-CIO for the vitally important role it played in securing the best reclamation law in the United States, thereby nullifying any strong public sentiment for slowing or halting the developing of this resource, and therefore the Montana State Branch of Operating Engineers requests the lobby of the Montana State AFL-CIO to continue to support the reclamation legislation that was passed gocerning coal mining in the 1973 session, that will give maximum employment with an absolute minimum of harm to our environment, and to oppose any changes in this ideal reclamation law, and

BE IT STILL FURTHER RESOLVED, that this resolution be presented to the Montana State AFL-CIO for their concurrence.

* * *

RESOLUTIONS PASSED BY THE EIGHTEENTH ANNUAL CONVENTION OF THE MONTANA STATE AFL-CIO, AUGUST 22-24, 1974

RESOLUTION NO. 40

WHEREAS, under provisions of the Coal production tax enacted by the 1973 Legislative session, the tax was fixed at so many cents per ton according to BTU content,

WHEREAS, with the continuing inflationary spiral, the real revenue from such cents-per-ton tax schedules is declining, while the price of coal per ton is increasing,

WHEREAS, legislation which passed the 1974 House but died in the Senate because of the influence of the utility and coal lobbies, sought to correct this problem by taxing coal on a percentage of the sale value of the coal at the mine,

WHEREAS, had this change in taxing formula, as proposed under HB 527 been adopted, the tax per ton would have remained in a reasonably real income relationship with the buying power of the dollar,

WHEREAS, the taxing of coal on a percentage basis is consistent with the policy statement adopted by this Board at its December 18, 1972 meeting, which stated:

> "2...The levels of taxation must be sufficient to both meet the cost of social and economic disruption coal strip-mining will bring to affected areas, and to ensure that future generations of Montanans will also benefit from the disposal of a resource that is a part of their heritage."

(continued...)

WHEREAS,by continuing the taxing of coal on a fixed number of cents per ton, the intent of the above-quoted policy statement cannot be achieved,

BE IT RESOLVED, consistent with previous policy positions of the Montana State AFL-CIO, that we seek replacement of the present taxing formula with one which will levy a percentage of the mine sale price, as the State production tax on this irreplaceable resource.

* * *

RESOLUTION NO. 41

Events of recent months give us cause for great concern that under the guise of an "energy crisis" an all out effort is being plotted by the Ford Administration and major energy corporations to emasculate state environmental quality laws, such as have been enacted in Montana in recent years.

The working people who are the Montana State AFL-CIO, have repeatedly expressed their support for legislation to maintain the quality of living in our state. Their active interest has been a substantial factor in securing legislative enactment of sound air and water pollution control, utility siting and coal strip-mine land reclamation laws...laws which are the envy of the entire nation.

The Montana State AFL-CIO is unalterably opposed to any federal preemptive action which would in any way weaken Montana's environmental quality laws. To the contrary, we will do everything within our power to expose such proposed weakening as just another salient by major energy companies to exploit our resources at the lowest possible cost. We are determined that Montana shall not become another wasteland, such as maximizing of profits has accomplished in large areas of West Virginia, Kentucky, Pennsylvania, Illinois and Ohio.

We recognize that Montana's enormous reserves of strippable, low sulpher coal can be of major import in meeting the much-heralded "energy crisis". Assuming it is more real than contrived, we also recognize that Montana owes a responsibility to the nation to help meet that crisis.

The nation in turn must recognize it, too, has a commitment to Montana. Our coal, to be mined, must be so done in a manner that meets with the approval of the people of Montana.

Montana's environmental laws, although stringent, are not unreasonable. They are based upon a century-long bitter experience. A century of exploitation that has left portions of our state a heritage of unsightly mine dumps and placer tailings, of air polluted by the emissions of smelters and oil refineries, of once sparkling trout-ladened streams poisoned by mining, lumber and pulp wastes. We are determined that that experience will not be repeated in the century ahead.

This is not to say we are against the wise use of our resources. Quite to the contrary, Montana needs the jobs that increased resource utilization will create. However, we know that the technology is available to keep the adverse environmental impact of the exploitative industries to levels which will do a minimum of damage to our environment.

(continued...)

Montana Labor has always rallied when crisis faced our nation. We will do so in the present crisis, but in so doing it must be understood by the Ford Administration, the Congress, and the nation as a whole that such support will only be willingly given on the basis that "cooperation is a two-way street".

* * *

RESOLUTION NO. 55

WHEREAS, at the present, national and state attention has been paid to the problem of proper taxation of the mining of coal resources, and

WHEREAS, we are reminded that the state of Montana has never exacted adequate tax income from those harvesting or removing its natural resources other than coal, therefore,

BE IT RESOLVED, that the Montana State AFL-CIO Eighteenth Annual Convention direct the State Executive Board and officers to energetically seek legislation to correct the imbalance of taxation on all Montana's natural resources.

(4)

George L. Hammond, Executive Director, Montana Council No. 9 of the American Federation of State, County and Municipal Employees, Testimony on Senate Bill No. 13 at hearing of the Senate Taxation Committee on

January 22, 1975

Mr. Chairman and members of the Taxation Committee. The experience of states and counties in which coal mining has been the major industry has not been good. The coal industry has traditionally ignored the land and people that support it. States and counties have not in the past received in taxes even a small measure of the huge revenues obtained by coal mining companies. In 1970, for example, coal companies controlled 34% of the land in five coal-producing counties of Tennessee, but paid only 3.6% of the region's property taxes. One of the largest corporate landowners in that area paid $19,881.00 in property taxes on 45,000 acres of coal land, which works out to less that $.50 per acre. The result of such low taxes is that an area containing some of the nation's richest coal beds is in fact one of the poorest areas in the country.

The impact of coal strip mining on the people living and working in coal producing areas of the eastern United States has been well documented. All the services funded through state and local taxation - schools, transportation systems, human services agencies, and local government services - are either poorly developed or non-existent. Incomes are low, and residents of these areas pay a high price in terms of environmental degredation for what they earn. Coal companies have in the past used few of their profits to reclaim the land they have destroyed or improve the quality of life of their employees. The unmeasured human costs of coal strip mining are a high price to pay for increased consumption of electricity.

The intense interest in Montana coal demonstrated by the claim filing activity of energy companies must not result in unchecked development of the type that has taken place in the East. Coal sold on the open market has risen from $8.00/ton a year and a half ago to as high as $40.00/ton last year. With such high prices being paid to extractors there is no reason for Montana to allow coal mining companies to avoid paying for the human and environmental costs of their activities. Montanans can and must establish a tax system on coal that will provide on a continuing basis for the establishment of adequate schools, state and local government services, transportation systems and human services agencies that will be needed to meet the demands of coal development. Montana has an opportunity now, before coal mining has begun on a massive scale, to set up a tax system that will provide for these needs.

Mr. Chairman and members of the Taxation Committee, Senate Bill 13 is important to all of Montana's public employees and indeed to all Montanans. The $45 million increase in revenue under the terms of this bill will assist state government greatly in meeting its obligations for the biennium and provide funds for needed state services and state duties.

One of these duties is, of course, paying a decent, living wage to state employees who, in the final analysis, carry out the delivery of state services.

There will be a need, if the cost of living continues to rise at the pace of the past few years, to periodically adjust those salaries so that people can continue to live decently. As the revenues from this tax increase, as they certainly will in this time of energy scarcity, the money to perform that service for state employees will be on hand.

Senate Bill No. 13 is a step toward setting up such a system, and we commend and strongly urge you to support it, and give the approval of this committee to Senate Bill 13.

(5)

STATEMENT OF LONNY MAYER ON SENATE BILL 13 BEFORE THE SENATE TAXATION COMMITTEE JANUARY 22, 1974

Mr. Chairman my name is Lonny Mayer and I am executive officer of Retail Clerks Local Number 991 in Missoula.

Reformation of the coal tax system becomes important to the Retail Clerks both because it is important that the state have adequate revenue and that it be able to pay decent, living wages to its employees -- some of whom are members of the union I represent.

We believe that the state rightly can collect taxes based on the sale price of coal at the mine because the resources of the state belong to all its people. The asset of the coal in the ground can be a very valuable one indeed, if we use it correctly.

The present taxing formula has proved itself inadequate and needs to be changed so that Montanans in all walks of life -- and in the public service too -- can be assured that state government will have the funds to perform those services Montanans want, need and are entitled to.

The Retail Clerks support Senate Bill 13 and urge this committee to approve it.

TESTIMONY BEFORE THE TAXATION COMMITTEE, MONTANA STATE SENATE, HEARING ON SENATE BILL 13, WEDNESDAY, JANUARY 22, 1975.

(6)

I am Clyde Jarvis, president of the Montana Farmers Union, a statewide farm and ranch organization of approximately 8,000 family members, with headquarters in Great Falls.

I appear today on behalf of those thousands of taxpayers to urge adequate compensation to the State of Montana and all of its citizens from the giant corporations which are accelerating their removal of coal, another of this state's rich natural resources.

The history of Montana is replete with evidence of our failure to take adequate action under similar exploitation by industry in the past. Let us not get caught in the economic agonies of "too little, too late," again!

Coal taxes presently amount to approximately 18 per cent -- varying with individual situations -- of the sale price of coal at the mine. This is a <u>total</u> of the licensing or severance tax, trust indemnity fund levy, and net proceeds tax.

Montana Farmers Union recommended to the Montana Legislative Assembly Joint Interim Subcommittee on Taxation of Coal and Other Fossil Fuels that there be a <u>33-1/3 per cent</u> gross proceeds or severance tax on coal at its load-out price at the mine.

Therefore, we positively support Senate Bill 13, although obviously we don't believe it goes far enough!

At least, the percentage approach assures us if the price of coal should increase, so will the tax per ton. Also, because the tax is on the price, it automatically adjusts to the variable BTU content of the coal

Naturally, the energy conglomerates -- basking in record profits -- and their apologists will complain that coal development would be jeopardized and that 25 per cent is too high for taxation.

I suggest to you that it might not be high enough to:

1) Provide funds for unforeseen reclamation costs which could occur after initial reclamation is completed;
2) Provide for the expense of protecting and enhancing the environment of the region affected;
3) Provide monetary aid to the impacted areas and the State of Montana in general.

In summation, it is our considered judgment that a 25 per cent tax will not put coal out of competition as a fuel. However, it is our attitude that if the 25 per cent is too high, so be it. Leave the coal where it is. Then we will not turn our land upside down. We will continu our high agricultural productivity -- five times the worth of mining in this state -- and live with clean air, clean water and plenty of room.

The constant shadow of coal development in this nation has been poverty. Montana Farmers Union does not want that to happen in Montana. We are inclined to agree with the original Montanans, the Indians, who have told the "coal is king" people, in effect: It will take more than beads and trinkets this time!

Thank you for hearing me out, and for allowing the general welfare of the State of Montana and all of its citizens to weigh on your conscience as you make your decision.

It should be a "do pass" on Senate Bill 13!

###

7

REMARKS OF RAY BLEHM MONTANA FIRE FIGHTERS ASSOCIATION, ON SENATE BILL 13, HEARINGS OF SENATE TAXATION COMMITTEE, JANUARY 22, 1975

Mr. Chairman, the Montana Fire Fighters Association supports the concept of Senate Bill 13 and thinks it important in the long, continuous battle for tax justice in this state and in the nation.

The riches in the ground are rightfully the property of all the citizens of the state, and the taxes suggested by this bill will go a long way to assure that all the people of the state benefit from its richness.

There is much to be done with the tax money, more than the worker and the small property owner can do. It is proper, then, to call on those who make a profit from the minerals of the Treasure State to do their share to make certain that the full tax bill is paid.

After they have paid their proper share, this Legislature will have more leeway to do the things that can and should be done for people. And all of us will benefit from that.

For those reasons we support Senate Bill 13 and urge you to approve it.

BURKE (8)

Summary of SB 13 Tax Impact On Four Coal Companies Operating In Montana

Calendar Year
(January 1 - December 31, 1973)

	Western Energy	Peabody	Decker	Knife River
A. Average Price ($ per ton)(1)	$2.01	$2.15	$3.93	$2.38
B. Present Total Tax ($ per ton)(2)	.44	.41	.59	.25
C. SB 13 Total Tax ($ per ton)(3)	.60	.63	1.13	.80
D. Tax Increase ($ per ton)(4)	.16	.22	.54	.55
E. Average Price (¢ per million BTU's)(1)	11.6¢	12.5¢	20.5¢	19.8¢
F. Present Total Tax (¢ per million BTU's)(2)	2.5	2.4	3.1	1.9
G. SB 13 Total Tax (¢ per million BTU's)(3)	3.4	3.7	5.9	6.1
H. Tax Increase (¢ per million BTU's)(4)	.9	1.3	2.8	4.2

1. Average price per ton during 1973 from reported Net Proceeds Tax data, Department of Revenue
2. Based upon current Strip Mines License Tax and weighted average of 1969-1973 Net Proceeds Tax and Royalty Tax, Department of Revenue
3. Projected by making the tax changes proposed in SB 13.
4. The tax increase from present tax to proposed SB 13 tax changes.

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Exh. 10

Lewis Coal Mining Co.
Jack Carlson
Roundup, Mont

This Bill would be very Bad for the small Domestic Coal Mine in Mont. at the Present time, exclusive of the Power Plants over 80% of the Coal used in ~~Mont~~ State is imported from out of State and their Cost + taxes are much less than in Mont. the Present law of the state and if the Federal law had been Passed, the Coal tax alone would have been $3000 Per acre on a bed of Coal Mine 7 ft thick SB-13 with a 25% tax on $14. Coal would cost the Consumer $16.50, or $1.50 increase in Price without any increase ~~Cost~~ that will come in Repair Fuel and new Federal taxes. only Consumers Pay taxes.

at the Prsnt Price of equipment, a used 6 yard old front end loader $140,000. you need a Production of at least 400 ton to ~~cover~~ warrant Such a outlay we should have a exemption of 50,000 to offset the Coal imports and high Cost of Machinery.

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from Foundations, and possibly from other states cooperating in the project and from the coal companies themselves. Montana has a bountiful supply of wind and sun for alternative energy research purposes. It also has a number of feed lots and other waste product supplies from which methane gas experiments could be conducted. Montana has thermal energy potential and experiments with underground gasification from coal can be conducted here. The Montana Democratic Party supports the development of such a center in Montana for the conduct of research and making information available to persons interested in using alternative energy.

As you will note in the second paragraph of this plank, the Montana Democratic Party strongly supported taxation amounting to 30% of the gross sales price of coal mined in the state. Montana has historically been the source of raw materials, especially minerals, for industry in other parts of the nation. While we are accurately called the Treasure State we must admit that ours has been a treasure which has suffered raids from other parts of the country. Mining has provided benefits for Montana in the form of jobs and local taxes, but the benefits left here have been miniscule in comparison to the fortunes removed. The Democratic Party of Montana wants that historical pattern changed.

Fiscal Year 1975
July 1, 1974 - June 30, 1975)

	Western Energy	Peabody	Decker	Knife River
A. Average Price ($ per ton)(1)	$3.30	$2.51	$4.55	$4.10
B. Present Total Tax ($ per ton)(2)	.50	.42	.62	.32
C. SB 13 Total Tax ($ per ton)(3)	.98	.75	1.31	1.26
D. Tax Increase ($ per ton)(4)	.48	.33	.69	.94
E. Average Price (¢ per million BTU's)(1)	19¢	14.6¢	23.7¢	31.5¢
F. Present Total Tax (¢ per million BTU's)(2)	2.8	2.4	3.2	2.5
G. SB 13 Total Tax (¢ per million BTU's)(3)	5.6	4.3	6.8	9.7
H. Tax Increase (¢ per million BTU's)(4)	2.8	1.9	3.6	7.2
I. Burnsite Long-Term Contract Price, 8/74 (¢ PMBTU)(5)	60(6)	60(6)	85(7)	37.2(8)
J. Tax Increase (% of Burn Site Price)	4.6%	3.2%	4.2%	19%
K. Other Contracts Signed for Future Delivery (¢ PMBTU)	115(9)		103(10)	
L. Tax Increase (% of Burn Site Price)	4.5%		6.5%	

1. Based upon correspondence with coal companies, Alan Taylor, Department of Revenue.
2. same as above
3. same as above
4. same as above
5. Federal Energy Administration letter to Lt. Governor Bill Christiansen, December 4, 1974.
6. Average of prices of 8,000-9,000 BTU Montana coal delivered to Northern States Power, Minnesota.
7. Average of prices of 9,500 BTU Montana coal delivered to Commonwealth Edison, Illinois, and Detroit Edison, Michigan.
8. Price of Knife River coal delivered to Sidney, Montana.
9. Based upon recent sale of $5 per ton coal to Tennessee Valley Authority, assuming rail tariff of $15 per ton.
10. Based upon recent sale $7 per ton coal to Austin, Texas, with rail tariff of $12.72 per ton.

Analysis Assuming Different Severance Tax Rates of 30% and 20%

FY 1975	Western Energy	Peabody	Decker	Knife River
		30% Tax Rate		
A. Average Price ($ per ton)	$3.30	$2.51	$4.55	$4.10
B. Tax Increase ($ per ton)	.65	.46	.92	1.15
C. Tax Increase (¢ per million BTU's)	3.7¢	2.7¢	4.7¢	8.8¢
D. Tax Increase as a % of Burn Site Purchase Price	6.2%	4.5%	5.5%	23%
		20% Tax Rate		
E. Average Price ($ per ton)	$3.30	$2.51	$4.55	$4.10
F. Tax Increase ($ per ton)	.32	.21	.47	.74
G. Tax Increase (¢ per million BTU's)	1.8¢	1.2¢	2.4¢	5.7¢
H. Tax Increase as a % of Burn Site Purchase Price	3%	2%	2.8%	15%

WHAT THE NEW SEVERANCE TAX RATE SHOULD BE TO LEAVE TAX BURDENS UNCHANGED

Coal Type	Effective rate at time of passage of last tax increase (CY '73)
A. Greater than 9000 BTU's per pound (Decker	10.2% of gross value
B. 8000 - 9000 BTU's per pound (Western Energy, Peabody	16.9% (Western Energy) 15.3% (Peabody)
C. Less than 7000 BTU's per pound (Knife River)	4.7%
D. Weighted average of 12.6% of gross value*	

*Weighted average If 12.9% of gross value excluding Knife River
*Straight average of 14.1 of gross value excluding Knife River

Dear Sir:

We are very concerned about the need for increased research activity in Montana. We feel that Senator Mansfield's efforts to start such a program will be a great disaster unless the State makes a reasonable effort to support research itself. This research should not be limited to energy research, but should also include other basic research which my lead to the betterment of Montana and the Nation.

This program could be financed by a five cent tax per ton on coal.

Sincerely,

Zelda B. Taylor	RR 3 Box 253 C	Bozeman, Mt 5971
Richard A Geer	502 N. Western Dr.	Bozeman Mt. 5971
William C Figgs	302 KROGER Dr.	Bozeman Mt 59715
Kathleen A. Baumgart	41 Hedges So. MSU	Bozeman, MT
John E. Robbins	206 S 8th Ave	Bozeman Mt 597
Evelyn R. Warren	RR#4, Merlin Dr #53	Bozeman, Mt 5971
Arnold C. Craig	1216 S. Grand	Bozeman MT 597
William C Bryant III	Rt.4 #17 Forest Park	Bozeman, Mt. 597
Douglas Cameron	1207 E. Main #22	Bozeman, Mt 59715
Tom L Chatriand	227 Roskie	Bozeman, Mt. 5971
Russell Lindgren	425 W Curtiss	Bozeman, Mont 5971
Ahmed Mubarak	221 GH. MSU	Bozeman, 59715
Chris Evenson	921 West Curtiss	Bozeman, Mt., 59715
Lynn Hagerman	315 E. Griffin Dr. #3	Bozeman, Mt. 59715
E. W. Amacher	1905 W. College	Bozeman, Mt. 59715
Bradford P. Mundy	1207 S. Cedarview	Bozeman, Mt. 59715
Ralph A Olson	1905 Willow Way	Bozeman, Mont.
Patrick R Callis	512 Dell Pl.	Bozeman Mt.
Rhoda Lacy	310 S. 3rd Ave	Bozeman MT
Eric Stuthsaker	1216 South Grand 1107 Roskie Hall	Bozeman Mt. Bozeman Mt.
John Montagne	RT 3 Box 45	Bozeman Mt.
Robert A. Chadwick	1715 KAGY BLVD. 1420 Spring Creek Dr	BOZEMAN, MONTANA Bozeman, Mon

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PRICE ESCALATION - SAVAGE MINE

November 1, 1970	2.23 per ton
July 1, 1971	2.24 per ton
December 1, 1971	2.41 per ton
July 1, 1973	2.50 per ton
August 15, 1973	2.583 per ton
December 1, 1973	2.663 per ton
June 1, 1974	3.75 per ton
December 1, 1974	4.45 per ton

WESTERN ENERGY COMPANY

Estimated Contract Sales (000's)

Customer		1974	1975	1976	1977	1978
Montana Power Company						
J. E. Corette	Max	505	700	700	700	700
	Min	None	None	None	None	None
Colstrip 1 & 2	Max	None	700	1,900	3,000	3,000
	Min	None	700	1,500	1,500	1,500
Northern States Power Co.						
Riverside	Max	1,737	1,000	Contract Expired		
	Min	None	None			
Sherburne 1 & 2	Max	None	630	3,390	5,500	5,500
	Min	None	630	1,880	2,500	2,500
Wisconsin Power & Light						
Columbia 1 & 2	Max	178	2,300	2,300	4,600	4,600
	Min	None	1,600	1,600	3,200	3,200
Tennessee Valley Authority						
Shawnee	Max	90	160	Contract Expired		
	Min	None	160			
Great Lakes Coal & Dock						
Various	Max	363	409	389	389	339
	Min	None	376	356	356	312
Miscellaneous '74	Max	340				
TOTAL	Max	3,213	5,899	8,679	14,189	14,139
	Min	None	3,466	5,336	7,556	7,512

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Table 1.

FORSYTH PUBLIC SCHOOLS

Forsyth, Montana

Annual Enrollment 1970	
Elem.	373
H.S.	183
Total	556

Predicted Enrollment for 1974 from 1970 School Census	
Elem.	293
H.S.	188
Total	481

Annual Enrollment 1974	
Elem.	465
H.S.	219
Total	684

Annual Enrollment-1974	684
Census Date-1970	481
Student Impact	203

(Figures Base on $1030 cost per student)

Annual Cost - Total Budget	1974	$ 727,050
Cost based on Census Date	1974	492,432
	Impact Cost	$ 234,625

Increased Cost in Dollars Per Governmental Unit

(District)	(County)	(State)	(Other)	Total
$ 67,448 (29%)	$114,661 (51%)	$42,716 (19%)		$224,825

Cost in Mills to Local School District

1/3	H.S.	$22,480	2.65 Mills
2/3	Elem.	$44,968	8.49 Mills
			11.14 Total Impact Mills
			(13.75 Impact Increase)

CALVIN WAHN
supt. schools
FORSY

(15)

TESTIMONY OF MICHAEL PICHETTE, EXECUTIVE SECRETARY, MONTANA DEMOCRATIC PARTY BEFORE THE SENATE TAXATION COMMITTEE OF THE 44th LEGISLATIVE ASSEMBLY, JANUARY 22, 1975.

I wish to thank the members of the Taxation Committee for allowing me to submit the following testimony in support of Senate Bill 13.

At its Platform Convention in Great Falls this past September, the Montana Democratic Party devoted much time and discussion to the problem of coal taxation. The overwhelming consensus of the Party members was that Montana is fortunate in having this tremendous resource in our state, and Montanans should make every effort to see that its use benefits our people. For the benefit of the members of the committee, I would like to quote the planks on coal taxation adopted by the Democratic Platform Convention.

> Coal is a depletable resource. Once it is mined and shipped out of state, or burned and consumed in power plants in the State, it is gone forever. The history of mining, particularly in this country, suggests that although large amounts of wealth are extracted from the ground, the area affected remains poor economically and near the poverty level. The Montana Democratic Party is determined this should not happen in the coal mining areas of Eastern Montana.
>
> The Montana Democratic Party supports reformation of the Severence Tax and Net Proceeds Tax Laws as applied to coal and supports legislation designated to simplify coal taxation by basing the tax on a percentage of the sales price of the coal, provided the taxable valuation of the counties is not adversely affected. This will make it impossible for coal companies to juggle figures, take unwarranted deductions, and otherwise avoid the proper and effective taxation of coal

mined in the State of Montana. Further, the Montana Democratic Party supports a total tax effect of at least 30% of the gross sales price f.o.b. mine mouth of the coal.

This tax should be distributed to the following:

1. To the Resource Indemnity Trust Fund.

2. To the State General Fund.

3. An increased amount to counties from which the coal is extracted, in the same manner as the proceeds taxes are now distributed.

4. A substantial amount to a Social Impact Fund. The monies from this fund should be available upon request to any governmental unit which has been adversely affected by the impact of coal development in its area. It should be used for such things as education, roads, law enforcement, and other government services that cannot be financed from existing property taxes until the full adjustment to increased tax base has produced increased revenue for the county. It should also be available for retirement of school bonds and similar porblems caused by sudden decrease in population once the coal impact or construction boom has ended.

5. To alternative energy research. The highest priority should be given to this time.

Mindful that coal is a depletable resource and once it is gone it cannot be replaced as an energy source, the Montana Democratic Party supports the setting aside of a substantial amount of all coal tax proceeds collected in the State of Montana to be used for alternative energy research. Montana is ideally situated for a truly significant alternative energy research center to be developed with the use of these funds together with funds received from the Federal Government,

Committee, Chairman
and members of this Committee
I am Rep. H. W. Jensen
representing Rosebud Co.
Communities. First I want
to take it upon myself the sponsors
of this bill.
The Oil Net Proceeds Tax
in our County of Rosebud
has shown a continuous
increase in return for the last
4 years. The value of a
ton of Coal in "71" was 1.68
The value of that same
Coal in "74" was from $2.00

No 9K. In this case,
Penbrook and Pierce Fork
has dropped from a high
of .09 per ton in 71' to a
low of about 1½ cent per ton.
in 1974

The market value of
coal has drastically declined in
the past four years yet
the coal severance tax has
been holding at its year.

Little equity exists between
the Coal Companys in our
county over the past 4 years.

One has paid an average of our 7¢ per Ton while another co has paid just under 2¢

This is comparable coal with like values

This new law proceeds tax in my opinion is the best answer to our problems

This process of taxing coal will be simple in administration for the Coal Co and the taxing authority more permanent in its collection of tax money to the County. I believe it is the answer to local

Valuation of Coal.

Some will say production

Can not be collected from

the Land Tax

We can get it reached by Income Tax

This is an Unjust Tax

Income Tax is a Progressive

Tax Total Cost of Coal

Comparison Mine produces

Can not be considered

Other evidence brought back to me Counsel

Let me hope to Standard

Some will say 25% Swamp

Land is Too High Most other

Property is taxed year after

year at from 1½ to 2½ per cent

of its market value. Now
the same
this property is also used
or mined year after year after year
Now the tax on coal
is really some thing else.
In the case of coal we
are taxing it for only 1 year.
at the same time in
reality we selling part
of the County and part of Production
part the State
of Montana. I don't believe
a 25% severance tax is to
high on a property that is
taxed once and gone forever

In comparison to other property Taxes are not too high.

As an example I will use a good home built in 1910. This old home has been well cared for and properly maintained and is in good serviceable condition. This property has paid taxes for 64 years with care it may pay taxes for another 36 years making 100 years that this property has been taxed.

(6)

at a taxing rate of 1½ to 2½
% of [illegible] year over
a 100 year period makes this property
pay about 200 % of its value
in taxes. Land a non
depleting property would be
taxed at eight per cent. Severance
tax at 25 % of market value
on coal doesn't seem to high
as compared to other property
This coal was never taxed
before and it will never be
taxed again.

Thank You

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

January 29, 1975

The tenth meeting of the Taxation Committee was called to order on the above date in Room 415 of the State Capitol Building at 8:14 a.m. by Chairman Watt.

ROLL CALL: Roll call found all members present.

Chairman Watt opened the meeting by asking the committee's consideration of SB13, previously heard. Sen. Towe, sponsor of the bill, then introduced several amendments he had for his bill and these amendments were discussed.

Sen. Towe Moved to Adopt Amendment No. 1; motion carried. He then Moved to Adopt Amendment 2; motion carried. He then Moved to Adopt Amendments 3 and 4; motion carried. He also Moved to Adopt Amendment 5; motion carried.

Chairman Watt then asked for further discussion on the bill and Sen. Mathers objected to some of the language in the bill, in particular the term 'contract sales price' as defined in Section 2 on page 3. He mentioned that the summer's subcommittee on Fossil Fuels had discussed this legislation thoroughly and felt that the wording of SB13 as it is, would create 'pyramiding' of taxes. He suggested an amendment and Roger Tippy quoted the suggested amendment.

Sen. Mathers then Moved to Adopt his Amendment. After some discussion a roll call vote was taken which defeated his motion 5 to 3. Copy of this vote attached.

Chairman Watt then asked for further discussion and/or amendments and Sen. Mathers stated he thought the coal companies should be treated the same as the gas and oil companies and suggested a change in the percentage of tax charged, page 4, line 16 of the bill. The question of the fiscal impact if this tax were changed was also discussed.

Sen. Turnage Moved to Defer Disposition of SB13 Until Disposition of SB87. Following extensive discussion of the present state of the bills, which face numerous amendments both proposed and adopted, (see above) Sen. Turnage then Withdrew his Motion. Sen. Manning stated he feels it is at present a 'crippled' bill and thinks the committee should take more time to find out about the mechanics of the bill and their probable effects.

Chairman Watt asked for other discussion from members concerning the bills and their proposed amendments and it was agreed that action on these bills would be postponed.

CONSIDERATION OF SENATE BILL 165: Senator Cetrone introduced his bill saying it was designed to take business inventories out of Class 3 and put them into Class 7. Since the passing of the bill to change date of inventory assessments, taxable inventories would necessarily be higher, however, this legislation would lower the rates. He introduced Dennis Burr of the Department of Reve

ROLL CALL

TAXATION COMMITTEE

44th LEGISLATIVE SESSION - - 1975 Date 1/29

NAME	PRESENT	ABSENT	EXCUSED
SEN. HEALY	✓		
SEN. BROWN	✓		
SEN. MANNING	✓		
SEN. MATHERS	✓		
SEN. NORMAN	✓		
SEN. TOWE	✓		
SEN. TURNAGE	✓		
CHAIRMAN WATT	✓		

SENATE COMMITTEE TAXATION

Date 1/29 SEN. Bill No. 13 Time 8:47a.m.

NAME	YES	NO
SEN. HEALY		✓
SEN. BROWN		✓
SEN. MANNING	✓	
SEN. MATHERS	✓	
SEN. NORMAN		✓
SEN. TOWE		✓
SEN. TURNAGE	✓	
CHAIRMAN WATT		✓
	3	5

Nita Fjeseth
Secretary

Senator Watt
Chairman

Motion: Sen. Mathers' Amend. to p. 3. Sec. 2 Requiring "or" on Pg. 2 of H.B. 115

(include enough information on motion--put with yellow copy of committee report.)

SENATE COMMITTEE TAXATION

Date 1/29 Sen Bill No. 13 Time 9:00a.m.

NAME	YES	NO
SEN. HEALY		✓
SEN. BROWN	✓	
SEN. MANNING		✓
SEN. MATHERS	✓	
SEN. NORMAN		✓
SEN. TOWE		✓
SEN. TURNAGE	✓	
CHAIRMAN WATT		✓
	3	5

Nita Fjeseth
Secretary

Senator Watt
Chairman

Motion: Sen Mathers - change 25% to 22% on change - page 4 line 16

(include enough information on motion--put with yellow copy of committee report.)

STATE OF MONTANA

DEPARTMENT OF REVENUE
MITCHELL BUILDING
HELENA, MONTANA 59601

MEMORANDUM

TO: *W. A. Groff, Acting Director*
Department of Revenue

FROM: *Alan Taylor, Statistician*
Research Division

DATE: *January 30, 1975*

RE: *"Tax Pyramiding" in Coal Taxation*

The so-called tax pyramiding effect or tax spiraling effect in coal taxation has generated considerable controversy in recent months in legislative deliberations. Industry representatives and some legislators fear that when two or more different production taxes are based on gross value, unless the base price for computation of gross value excludes those production taxes the end result will be a series of taxes on taxes - gross value including one kind of tax will be the base for figuring gross value on a second tax, which will increase gross value and require reporting an adjusted higher computation of the first tax, leading to a higher gross value on the second tax, and so on infinitely. The Department of Revenue has claimed that this is not a serious problem and that no deduction for taxes on production should be allowed in computing gross value. This memorandum will clarify the Department's position.

The reason tax pyramiding has become an issue stems from the nature of coal sales contracts. According to the Interim Study by the Subcommittee on Fossil Fuel Taxation, on page 17, every contract analyzed contained provision for the pass through of taxes on production to the buyer. This means that what the buyer finally pays the seller for coal - gross value in the usual sense - includes an amount for taxes on production. Thus, the final tax liability, if based on the usual notion of

gross value, would be computed partially on an amount for taxes on production - a tax on a tax. The department contends that this tax on a tax is negligible for all practical purposes and even if it were not negligible current practice in the computation of the net proceeds tax disallows deductions for taxes. Consequently, the gross value data base built up from the department's records contains taxes on production. In other words, legislation in which production tax rates are set on the basis of the department's records but allowing a deduction for taxes on production will have to be raised somewhat over the production tax rates which would be set if no deduction is allowed. For example, the department has indicated that the current Strip Mines License Tax has been yielding revenue on a weighted average basis at a rate of 12.6% of gross value including taxes (1973) of all coal produced in the state. If legislation to put the tax on a value base allowed a deduction for taxes on production the rate would have to be set at 14.2% to yield the same revenue as the present tax.

On a superficial level, it seems ludicrous to think that the buyers of coal would stand idly by and watch the price they have to pay for coal rise in an infinite spiral without insisting on a rewording of their sales contracts to break the spiral. But the point is, that even assuming spiral were to go on infinitely, the reported gross value could never exceed a certain limit which is only a few percent higher than gross value less taxes on production. This derives from a simple formula taught in high school algebra classes and introductory economics classes. It can be found in Professor Paul Samuelson's text Economics on principles of economics. The formula gives the value for the sum of a geometric progression. It is the standard formula for what in economics is called a multiplier. If you start with a number and multiply it by a percent less than one, and then multiply the result by the same percent, and that result in turn by the same percent, ad infinitum, and add all the terms together

you have a geometric progression. Assume the number you start with is one, then the formula says that the sum $1+r+r^2+r^3 \ldots = \frac{1}{1-r}$ where r is a percent less than one. If the number you start with is the gross value of coal, less taxes on production, then you multiply that gross value of coal by $\frac{1}{1-r}$ to find the limit that the final gross value can approach.

To demonstrate how this might work, suppose coal is selling for $4.00 per ton f.o.b. mine exclusive of production taxes. Then suppose the state imposes a 12% of value tax. Without tax pyramiding the tax due would simply be $.48 per ton (12% x $4 = $.48). With infinite pyramiding the tax due would be $.54 per ton ($4 x $\frac{1}{1-12\%}$). Note that this assumes infinite pyramiding.

In terms of gross value less taxes, the difference between the tax liability with pyramiding and without pyramiding is about 1.5% - a relatively small amount. In a case where several taxes are value based the concept is the same. If one tax is 12% and another amounts to 10%, the tax on the tax amounts to about 12%x10% or 1.2%. Carried on infinitely the difference between the tax liability with pyramiding and without pyramiding is about 5.2% in terms of value not including taxes. Any other value based production cost to the company (such as royalties) could be included in this escalation and the pyramiding effect would still approach a limit very little more than the nonpyramided effect. Mathematical background will be gladly furnished.

Perhaps an example of actual practice under current law would help. Suppose Company A has taxable net proceeds of $1.00 per ton in 1970. Suppose also the mill levy was 134 and stayed constant. Then suppose the legislature increased license tax effective rates by 28¢ per ton. Then the next years taxable net proceeds would increase 28¢ over what it would have been without the tax increase. This would increase taxable net proceeds to $1.28 per ton in 1971. Since taxable net proceeds has increased, the company's tax liability is increased and is passed through to

the buyer to cause an increase in price. This price increase amounts to $.038 (.28x.134) and shows up in the following year (1972) in the reported per ton taxable net proceeds of $1.318 ($1.28+$.038). Again, the increased tax liability is passed through to the buyer and a higher price results. This time the price increase amounts to $.005 (.038x.134) and results in reported taxable net proceeds per ton in 1973 of $1.323 ($1.318+$.005). At this point the process yields no further significant increases. The difference between the taxable net proceeds with pyramiding and without pyramiding has amounted to $.043 per ton. This has happened in the past and has never been seriously challenged. The current net proceeds law has disallowed taxes on production as a deduction through the history of the tax.

It should be emphasized that the issue of tax pyramiding is not a central issue in the debate over coal taxation. The important thing to point out is that because the current net proceeds law does not allow deductions for taxes on production, the use of this department's gross price date requires that any value based tax allowing deductions for taxes on production in computing the tax base will have to have a rate higher than the rate imposed by the same tax not allowing deductions for taxes on production. The difference between HB115 and SB13 in classification rates for the gross proceeds tax reflects the deductibility of taxes on production in HB115 and the nondeductibility of taxes on production in SB13 in computing contract sales price. The two bills do have the same effective tax bases on which mill levies will be applied by local governments.

Chairman Watt then asked if Sen. Manning was ready for the committee's action on Senate Bills 13, 86 or 87. Sen. Manning had received some recent information from the State Highway Dept. in regard to road funds and as a result, preferred several additional amendments to the already-revised bill. DISPOSITION: Sen. Towe then MOVED SB13 AS AMENDED DO PASS; motion carried, Sen. Mathers voting "No". R.C. attached.

The committee then discussed SB86, also previously heard and extensively amended. Members are in possession of the revised bill, to which several additional amendments were to be added. There was discussion on the bill with these amendments also on the definition of the word 'demonstration' as used in the bill, section 1, line 18. Sen. Mathers also questioned if there was a provision in the bill that would permit the Legislature to be authority in the use of such funds. This amendment was on page 3, starting subsection 4, line 22. Roger Tippy was instructed to assist in getting these amendments into the bill as well.

Sen. Towe Moved Adoption of Amendments to SB86; motion carried unanimously.

Members discussed an amendment proposed by the Montana Student Lobby at the hearing.

Sen. Brown Moved Adoption of Amendment to SB86; motion carried unanimously.

Sen. Turnage Moved Adoption of Amendment to SB86; this amendment on defining 'demonstration'. Motion carried.

Sen. Mathers' proposed amendment 'subject to Legislative appropriation' was discussed next and Sen. Turnage Moved Adoption of Amendment to SB86; motion carried.

DISPOSITION: Sen. Towe Moved SB 86 DO PASS AS AMENDED. Motion carried unanimously.

Chairman Watt then adjourned the meeting.

Robert D. Watt

ROBERT D. WATT CHAIRMAN

ROLL CALL

TAXATION COMMITTEE

44th LEGISLATIVE SESSION - - 1975 Date 1/21

NAME	PRESENT	ABSENT	EXCUSED
SEN. HEALY		✓	
SEN. BROWN	✓		
SEN. MANNING	✓		
SEN. MATHERS	✓		
SEN. NORMAN	✓		
SEN. TOWE	✓		
SEN. TURNAGE	✓		
CHAIRMAN WATT	✓		
SEN. McOMBER	✓		

SENATE COMMITTEE TAXATION

Date 1/31 SEN Bill No. 13 Time 9:15

NAME	YES	NO
SEN. HEALY ABSENT		
SEN. BROWN	✓	
SEN. MANNING	✓	
SEN. MATHERS		✓
SEN. NORMAN	✓	
SEN. TOWE	✓	
SEN. TURNAGE	✓	
CHAIRMAN WATT	✓	
	6	1

Nita Fjeseth
Secretary

Senator Watt
Chairman

Motion: MOVE S.B. 13 D.P. AS AMENDED

(include enough information on motion--put with yellow copy of committee report.)

TAXATION COMMITTEE

March 11, 1975

Chairman Dan Yardley called the meeting to order at 8:07 a.m. in room #108, Capitol Building, Helena. All members were present except Reps. Harrison Fagg, Edward Lien and Duane Johnson who were excused. Senate Bill 13 was scheduled to be heard.

SENATE BILL 13

Senator Thomas E. Towe, district 34, Yellowstone County, Chief sponsor, explained Senate Bill 13, coal tax bill, does not allow deduction for taxes on production, as is the case with the present law; House Bill 115 does allow taxes to be deducted on production when computing the contract sales price.

Senator Towe proposed a formula for figuring taxes on coal which is explained in detail in the attached Exhibit A. The net proceeds taxes are handled on a pyramiding basis. Major difference between SB 13 and HB 115 is $7 million dollars - SB 13 would generate about $20,177,000 and HB 115 $12,645,000. HB 115 would bring in about 68% as much as SB 13.

Senator Towe would include the provision of HB 115 in SB 13 excluding the first 5,000 tons of coal each quarter year, totalling 20,000 tons a year, from severance taxation. This is a small amount of coal.

Disposition of revenue generated by SB 13 is explained in SBs 86 and 87; however, SB 13 allocated 3¢ per ton or five percent of the contract sale price of the coal mined in a county to the county governing body, and the balance to the general fund.

History shows coal is a wealth in natural resource; however, wealthy coal areas are also thought of in terms of poverty. Companies controlled 34% of the lands and paid only 3.6% of the property taxes in Pennsylvania coal mine fields. The coal companies are not paying their fair share of taxes. Poverty and wealth in coal industry go hand in hand. We have to have something to look for when this coal is gone. Decker coal is 40 to 50 feet thick, making 87,000 tons of coal in an acre, valued at $435,000 of coal per acre. Net proceeds would be about $144,000 per acre under HB 115, and under SB 13, the net proceeds would be $156,000 per acre, a $12,000 per acre net proceeds difference.

Some people think 25% is too high; however, escalation clauses go right on through. Wyoming increased her taxes to 9.5% and goes up to 11% on escalation basis. North Dakota tax is to be 10%, 20% in a year, and 30% tax by 1980 is proposed. Senator Towe thinks 20% to 25% will be the figure North Dakota arrives at, but an initiative is to put it at 30%. Contracts indicate that this price is warranted.

Western Energy has a $5.00 per ton short-term contract. Westmoreland Resources has a $5.00 per ton contract; Decker with high value coal has a $7.00 per ton, before freight, contract with Western Energy. Gas and oil are finite resources.

Coal is going to be mined - the question is when and how much will Montana get from it when it is mined. Montana coal is necessary to keep this nation going. Reports of $50 to $80 per ton prices were heard when the coal mines were on strike. A 25% tax should be considered as a percentage to the person who buys the coal - Chicago Edison, Detroit Edison or various other utility companies.

Freight to Kentucky is $13.00 per ton. Burlington-Northern and other railroads received a 17.6% increase in freight rates. That amounts to $2.07 per ton, which is way more than our total tax and railroads have asked for another 96¢ raise. Freight rates are increasing annually more than our state tax would be.

Illinois has a sales tax on electricity of 3¢ per KWH, would be equal to $40.00 per ton for coal equivalent. A 4¢ sales tax in Illinois raises Montana coal $1.60 per ton, so $1.25 is not too much for Montana to charge.

Senator Towe mentioned amendments to Indian reservations, but submitted to the committee and will abide by the committee's decision. This amendment is proposed in lieu of the tribes having to go into court and maybe winning and maybe not. It provides any company mining tribal coal a dollar for dollar tax credit for severance taxes paid a tribe pursuant to an approved tribal tax, if certain conditions were met.

Senator Dave Manning, district 25, Treasure County, supports SB 13 because of the money generated; also distribution of funds expected under Senate Bills 86 and 87 is worthy of consideration.

Mr. Robert Mogen, county commissioner of Rosebud County, advised the net proceeds tax has been diminishing and they favor this new concept. See his written testimony attached.

Mr. Clyde Jarvis, representing the Montana Farmers Union, Great Falls, supports Senate Bill 13, but believes it does not go far enough taxwise. See his written testimony.

Mr. Mike Pichette, representing the Democratic Party, Helena, thinks neither SB 13 nor HB 115 has a high enough tax rate, and would urge 30% tax.

Mr. Don Judge, field representative for the American Federation of State, County and Municipal Employees, AFL-CIO, supports SB 13. He read a statement, copy of which is attached.

Mr. Ray Woodriff, Helena, supports SB 13. Montana needs the money, but should invest some of it in studying new sources of energy so that when the coal is all gone, we have something else. By raising

the cost of power through this mechanism, we will encourage more renewable energy study on other resources more quickly.

Sarah E. Bowler, representing Citizens Committee from Bozeman, supports the bill. She says Peabody Coal Company is a subsidiary of Kennicott.

OPPONENTS: Senator C. R. Thiessen, district 27, Richland County, does not really oppose SB 13. He is connected with the Basin Electric Co., which is a confederation of 110 rural electric co-ops started in 1958. He would like to have an amendment to the bill setting a time limit on reclamation of land damaged by coal mining.

Mr. Rod Hanson, executive secretary of Central Montana Electric Generation and Transmission Cooperative, and chairman of the Montana Associated Utilities Legislative Committee, and manager of the Sun River Electric Co-op, Fairfield, wishes the bill amended to show a lower rate of severance tax. See his testimony attached. He believes a high tax rate will cause a retaliation by buyers of coal on products Montana has to buy.

Mr. Pat Hooks, representing the Montana Coal Council, stated that no percentage tax bill is alive in the North Dakota legislature at this time. He opposes SB 13. He introduced some of the following witnesses.

Mr. David Peterson, fuel procurement administrator for the Northern States Power Co., Minneapolis, opposes SB 13 because it would increase electricity costs to consumers in the millions of dollars. Montana could lose $10 million in state tax by loss of sales. NSP is willing to carry her fair share of publicly funded governments and services required in Montana, but thinks the level of taxation exceeds the needs. See statement attached.

Mr. Lester H. Loble II, Helena, representing the Minnesota Power and Light Co., urges SB 13 be not concurred in. He thinks Montana should receive a fair severance tax on its coal, but the tax should be considered from time to time by the legislature. A very important cost of producing coal is the cost of reclamation. This tax provides a financial disincentive; it should be based on a cents per ton basis, not a percentage basis. The pass through condition will not forever be able to be passed through to its buyers, as concurrence of the Public Service Commission might not allow a raise in electricity rates.

Mr. J. F. Ratchye, representing Peter Kiewit Sons & Co., Sheridan, Wyoming, stated the company runs some coal mines in Wyoming, owns half Decker and runs it. Decker is one of the biggest coal mines in the state and ships most of its coal out of the state. He disagreed with former witnesses. Regarding Sen. Towe's statement about Decker Coal Company net proceeds being $144,000 per acre, net proceeds in no way equate into net profits. From net proceeds, a realistic depreciation figure is subtracted, then off-job costs are subtracted, partners pay taxes, then the federal government gets half of any profit that is

left. That the Commonwealth Edison Company comes to Montana and signs contracts for Montana coal to avoid paying the $1.60 per ton tax to Illinois is erroneous.

All mining companies in the State of Montana who operate under reclamation laws provide surety bonds in an amount in excess of requirement, and this fund would pay for reclamation should the company go broke.

Decker pays its men about $18,000 a year to start, and all their health needs are provided for him and his family 100%. State tax yield to Montana is roughly 80¢ per ton - on a trainload of 10,000 tons of coal valued at $50,000, Montana receives $8,000 and they are shipping twenty trainloads a week. He urges the committee to kill this bill as Montana is getting more than any other state now from its coal.

Mr. Pem Hutchinson, Westmoreland Resources, Billings, stated they are opposed to SB 13 with respect to the level of taxation proposed in the severance tax and with respect to the pyramiding of taxes and royalties. He urges taxes as a percentage of the contract sales price should be added after deducting production taxes and royalties. They produce 1.5 million tons of coal, and intend to produce 4 million tons in 1975. See testimony attached.

Mr. Bob Corette, Western Energy Co., Butte, Montana, opposes SB 13. He passed out a chart showing maximum and minimum tonnage of contracts on coal. If purchasers take minimums, the state could lose a lot of tax revenue. He thinks this tax is too high and a tax gets back to the consumers using electricity. Recommends committee do not concur.

Mr. Gene Phillips, Pacific Power and Light, Kalispell, was present, but didn't indicate his desire about SB 13.

Mr. Pat Hooks advised labor leaders are not in support of this bill. Knife River and Peabody impact is all over. It is not necessary to pass the Towe bill instead of the Halvorson bill.

Mr. Tom Lynaugh, representing the Crow Tribe of Indians, approves the amendment presented by Sen. Towe. Statutes recognize tribes can tax. Tax credit anticipation could reduce conflicts requiring court settlements. Westmoreland mines Crow coal.

Ms. Frances Satterthwaite, representing Montana Inter-Tribal Policy B, Helena, left a statement saying "If the amendment proposed by the Crow Tribe is accepted, the Inter-Tribal Board would support this bill - if it is not accepted, they stand in opposition to SB 13."

Mr. Patrick Stands Over Bull, Chairman of the Crow Tribal Council, is concerned about 25% taxation on coal, and would like to affirm support of the amendment. He left a long statement setting forth the tribe's views on coal taxation, which is attached.

Mr. Robert Yellowtail, Vice-Chairman, Crow Tribe of Indians, would like for it to be known that in no way are they opening the door for tampering with tribal jurisdiction. If any taxing is to be done on Crow coal, the Crow people should do the taxing. He and Mr. Pat Stands, Chairman, of the Crow Tribe of Indians, Crow Agency, left a lengthy statement which is attached, explaining social, economic, and Indian Treaty Rights aspects.

Mr. Daniel H. Israel, attorney for the Native American Rights Fund, Boulder, Colorado, wrote a letter dated February 24, 1975, to Mr. Dan Yardley, expressing his concern over the high taxation rate being considered in SB 13 on coal production. His letter is attached.

Mr. Tom W. Clarke, Legislative Chairman of the Miles City Area Chamber of Commerce, Miles City, wrote a letter to Rep. Dan Yardley, Chairman of the House Taxation Committee, dated Feb. 24, 1975, expressing a proposal that SB 13 be amended to a lower rate of taxation. Letter is attached.

Mr. Hutchinson, department of revenue, advised the sale price of coal was $1.81 per ton two years ago, and now coal is $5.00 per ton. A tax of $1.25 per ton will not break the companies mining coal. Thirty million tons are to be mined in 1977 and he predicts far more than that will be mined at a higher price, and the tax can be afforded.

Discussion brought out the question of why Montana should be too concerned about what coal costs buyers, as Montanans have to pay the asking price for their needs. A ton of coal generates about $40 worth of electricity. Time has not elapsed to allow determination of whether coal company contracts will be called upon to fill minimum amounts of coal stated, or whether the maximum amounts will be used. Contracts are written for 20 to 30 year periods, and it is difficult to know if costs and sale prices will remain stable that long.

Hearing adjourned at 9:45 a.m.

Dan Yardley

REP. DAN YARDLEY, Chairman

jl

POINTS OF DIFFERENCE BETWEEN SB 13 AND HB 115

1. The "pyramiding" issue

SB 13, p. 3, lines 19-23:
(value is calculated)
"including reserves collected for payment of taxes subsequently determined, but not including any tax on the coal which is not determined at the time of sale and for which the seller does not collect reserves at the time of sale"

HB 115, p.3, lines 12-14:
(value is calculated)
"excluding that amount charged by the seller to pay taxes paid on production"
(and defining taxes paid on production at p. 4, lines 1-7).

2. The severance tax rate

SB 13, p.4, lines 20, 22, 24
p. 5, line 1:
25%

HB 115, p.4, lines 17, 19, 21, 23:
20%

3. The exemption

SB 13, p. 5, lines 4-7:
"A person who produces less than five thousand (5,000) tons of coal in a quarter-year is not liable for any severance tax on that production."

HB 115, p.5, lines 7-9
"A person is not liable for any severance tax on the first five thousand (5,000) tons of coal he produces in a quarter-year."

4. Disposition of revenue

SB 13, p.7, lines 5-6
"(1) To the county general fund from which coal was mined three cents (3¢) per ton;

(plus provisions of SB 86, SB 87)

HB 115, p.7, lines 7-13:
"(1) To the county from which coal was mined, one-tenth (1/10) of the tax paid by each mine in the county; for such purposes as the governing body of the county may determine;
(2) One-twentieth (1/20) of the tax paid by each mine, to the city or county nearest the mine, as determined by the driving distance all-weather roads which was incorporated before Jan. 1, 1965;"

5. Taxable percentage of gross proceeds.

SB 13, p. 16, line 21
"Forty percent (40%)"

HB 115, p. 17, line 3
"Forty-five percent (45%)"

TESTIMONY BEFORE THE TAXATION COMMITTEE, MONTANA HOUSE OF REPRESENTATIVES, HEARING ON SENATE BILL 13, TUESDAY, MARCH 11, 1975.

I am Clyde Jarvis, president of the Montana Farmers Union, a statewide farm and ranch organization of approximately 8,000 family members, with headquarters in Great Falls.

I appear today on behalf of those thousands of taxpayers to urge adequate compensation to the State of Montana and all of its citizens from the giant corporations which are accelerating their removal of coal, another of this state's rich natural resources.

The history of Montana is replete with evidence of our failure to take adequate action under similar exploitation by industry in the past. Let us not get caught in the economic agonies of "too little, too late," again!

Coal taxes presently amount to approximately 18 per cent -- varying with individual situations -- of the sale price of coal at the mine. This is a total of the licensing or severance tax, trust indemnity fund levy, and net proceeds tax.

Montana Farmers Union recommended to the Montana Legislative Assembly Joint Interim Subcommittee on Taxation of Coal and Other Fossil Fuels that there be a 33-1/3 per cent gross proceeds or severance tax on coal at its load-out price at the mine.

Therefore, we positively support Senate Bill 13, although obviously we don't believe it goes far enough!

At least, the percentage approach assures us if the price of coal should increase, so will the tax per ton. Also, because the tax is on the price, it automatically adjusts to the variable BTU content of the coa

Naturally, the energy conglomerates -- basking in record profits -- and their apologists will complain that coal development would be jeopardized and that 25 per cent is too high for taxation.

I suggest to you that it might not be high enough to:

1) Provide funds for unforeseen reclamation costs which could occur after initial reclamation is completed;
2) Provide for the expense of protecting and enhancing the environment of the region affected;
3) Provide monetary aid to the impacted areas and the State of Montana in general.

In summation, it is our considered judgment that a 25 per cent tax will not put coal out of competition as a fuel. However, it is our attitude that if the 25 per cent is too high, so be it. Leave the coal where it is. Then we will not turn our land upside down. We will continu our high agricultural productivity -- five times the worth of mining in this state -- and live with clean air, clean water and plenty of room.

The constant shadow of coal development in this nation has been poverty. Montana Farmers Union does not want that to happen in Montana. We are inclined to agree with the original Montanans, the Indians, who have told the "coal is king" people, in effect: It will take more than beads and trinkets this time!

Thank you for hearing me out, and for allowing the general welfare of the State of Montana and all of its citizens to weigh on your conscience as you make your decision.

It should be a "do pass" on Senate Bill 13!

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CERTAINLY WILL IN THIS TIME OF ENERGY SCARCITY, THE MONEY TO PERFORM THAT SERVICE FOR STATE EMPLOYEES WILL BE THERE.

IN THE PAST AFSCME REPRESENTATIVES HAVE REQUESTED BENEFITS AND SALARY INCREASES FOR STATE EMPLOYEES AND HAVE NOT BECOME INVOLVED WITH THE REVENUE SOURCE MEASURES. NOW WE FIND OURSELVES BEING ASKED WHERE THE MONEY WILL COME FROM TO PAY FOR THESE THINGS.

SENATE BILL 13 IS PART OF OUR ANSWER AND WE COMMEND AND STRONGLY URGE YOU TO SUPPORT IT AND GIVE THE APPROVAL OF THIS COMMITTEE.

THANK YOU FOR YOUR TIME.

RESPECTFULLY SUBMITTED,

Don Judge

DONALD R. JUDGE, FIELD REPRESENTATIVE
MONTANA COUNCIL 9, AFSCME, AFL-CIO
600 NORTH COOKE ST.
HELENA, MT 59601

MONTANA STATE COUNCIL No. 9

AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES
Affiliated With A.F.L.—C.I.O.

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MARCH 11, 1975

TESTIMONY ON SENATE BILL 13

HOUSE: TAXATION COMMITTEE

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, I AM DON JUDGE, FIELD REPRESENTATIVE FOR THE AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, AFL-CIO, AND I RISE TODAY IN SUPPORT OF SENATE BILL 13.

MR. CHAIRMAN, THE IMPACT OF COAL STRIP MINING ON THE PEOPLE LIVING AND WORKING IN COAL PRODUCING AREAS OF THE EASTERN UNITED STATES HAS BEEN WELL DOCUMENTED. ALL THE SERVICES FUNDED THROUGH STATE AND LOCAL TAXATION - SCHOOLS, TRANSPORTATION SYSTEMS, HUMAN SERVICES AGENCIES, AND LOCAL GOVERNMENT SERVICES - ARE EITHER POORLY DEVELOPED OR NON-EXISTENT. INCOMES ARE LOW, AND RESIDENTS OF THESE AREAS PAY A HIGH PRICE IN TERMS OF ENVIRONMENTAL DEGREDATION FOR WHAT THEY EARN.

THE COAL INDUSTRY HAS TRADITIONALLY IGNORED THE LAND AND THE PEOPLE THAT SUPPORT IT. STATES AND COUNTIES HAVE NOT IN THE PAST RECEIVED IN TAXES EVEN A SMALL MEASURE OF THE HUGE REVENUES OBTAINED BY COAL MINING COMPANIES. COAL COMPANIES HAVE USED FEW OF THEIR PROFITS TO RECLAIM THE LAND THEY HAVE DESTROYED OR IMPROVE THE QUALITY OF LIFE OF THEIR EMPLOYEES. THE UNMEASURED HUMAN COSTS OF COAL STRIP MINING ARE A HIGH PRICE TO PAY FOR INCREASED CONSUMPTION OF ELECTRICITY.

IN 1970, FOR EXAMPLE, COAL COMPANIES CONTROLLED 34% OF THE LAND IN FIVE COAL-PRODUCING COUNTIES OF TENNESSEE, BUT PAID ONLY 3.6% OF THE REGION'S PROPERTY TAXES. ONE OF THE LARGEST CORPORATE LANDOWNERS IN THAT AREA PAID

$19,881.00 IN PROPERTY TAXES ON 45,000 ACRES OF COAL LAND, WHICH WORKS OUT TO LESS THAT $.50 PER ACRE. THE RESULT OF SUCH LOW TAXES IS THAT AN AREA CONTAINING SOME OF THE NATION'S RICHEST COAL BEDS IS IN FACT ONE OF THE POOREST AREAS IN THE COUNTRY.

INTEREST SHOWN IN MONTANA COAL, AS DEMONSTRATED BY THE CLAIM FILING ACTIVITY OF ENERGY COMPANIES, MUST NOT RESULT IN UNCHECKED DEVELOPMENT OF THE TYPE THAT HAS TAKEN PLACE IN THE EAST. THE PRICE OF COAL ON THE OPEN MARKET HAS RISEN FROM $8.00/TON A YEAR AND A HALF AGO TO AS HIGH AS $40.00/TON LAST YEAR. WITH PRICES AS HIGH AS THESE BEING RECEIVED BY COAL PRODUCERS THERE IS NO REASON FOR MONTANA TO ALLOW COAL MINING COMPANIES TO AVOID PAYING FOR THE HUMAN AND ENVIRONMENTAL COSTS OF THEIR ACTIVITIES.

MONTANANS CAN AND MUST ESTABLISH A TAX SYSTEM ON COAL THAT WILL PROVIDE, ON A CONTINUING BASIS, FUNDS NEEDED FOR THE ESTABLISHMENT OF ADEQUATE SCHOOLS, STATE AND LOCAL GOVERNMENT SERVICES, TRANSPORTATION SYSTEMS AND HUMAN SERVICES AGENCIES THAT WILL BE NEEDED TO MEET THE DEMANDS OF COAL DEVELOPMENT. MONTANA HAS THAT OPPORTUNITY NOW, BEFORE COAL MINING HAS BEGUN ON A MASSIVE SCALE, TO SET UP A TAX SYSTEM THAT WILL PROVIDE FOR THESE NEEDS.

MR. CHAIRMAN, AND MEMBERS OF THE COMMITTEE, SENATE BILL 13 MAY BE A VEHICLE FOR PROVIDING FUNDING TO THE STATE OF MONTANA SO THAT IT CAN MEET ITS OBLIGATIONS FOR PAYING A DECENT LIVING WAGE TO ITS EMPLOYEES AND ALSO IN PROVIDING EXPANDED SERVICES WHICH MOST CERTAINLY WILL BECOME NECESSARY WITH EXPANDING COAL DEVELOPMENT. THE $45 MILLON INCREASE IN REVENUE UNDER THE TERMS OF THIS BILL SHOULD CERTAINLY LOOK GOOD TO THOSE WHO ARE FACING A POSSIBILITY OF EXTREMELY HIGH BUDGETING OVER THE NEXT BIENNIUM.

THERE WILL BE A NEED, IF THE COST OF LIVING CONTINUES TO RISE AT THE PACE OF THE PAST FEW YEARS, TO PERIODICALLY ADJUST SALARIES SO THAT PEOPLE WHO WORK FOR THE STATE CAN CONTINUE TO LIVE DECENTLY. AS THE REVENUES FROM THIS TAX INCREASE, AS THEY

STATEMENT ON SENATE BILL NO. 13 PRESENTED MARCH 11, 1975, TO THE MONTANA HOUSE COMMITTEE ON TAXATION BY ROD HANSON, EXECUTIVE SECRETARY, CENTRAL MONTANA ELECTRIC GENERATION AND TRANSMISSION COOPERATIVE AND CHAIRMAN OF THE MONTANA ASSOCIATED UTILITIES LEGISLATIVE COMMITTEE

Mr. Chairman and Members of the Committee, my name is Rod Hanson, I am Executive Secretary of the Central Montana Generation and Transmission Association. We thank this Committee for the opportunity to appear before you to present this statement on behalf of Central Montana Electric Generation and Transmission Cooperative, the Upper Missouri Generation and Transmission Cooperative and the member rural electric cooperatives of the Montana Associated Utilities. This statement is also submitted in behalf of the Western Fuels Association, Inc., which was incorporated in 1974 by Basin Electric Power Cooperative, Bismarck, North Dakota, Tri-State Generation and Transmission Association, Northglen, Colorado, and Cajun Electric Power Cooperative, New Roads, Louisiana. These Generating and Transmission Cooperatives are owned and controlled by and serve approximately 125-130 rural electric cooperatives and public power districts in a number of states throughout this region and the nation.

Western Fuels Association, as far as we know, is this Country's first and only consumer-owned fuels cooperative. Its purpose is to secure for its members adequate and reliable long-term coal resources on the most economic basis possible. This is a new organization, and I am pleased to say that practically every one of Montana's Rural Electric Cooperatives has a relationship with Western Fuels by the fact that our bulk power generating cooperative, Basin Electric, is one of the organizers and principal members of

the Association. Western Fuels, while yet young, has made substantial progress in acquiring coal reserves in Wyoming. It is also considering proposals for acquiring holdings here in our own state. We are pleased by these prospects and wish to give Wester Fuels every encouragement.

All the consumer-owned groups for which I have the privilege of speaking today are deeply concerned about the strong efforts being made not only in Montana but in several other states to impose excessively high taxes on coal. We believe this will lead to massive economic retaliation of the worst kind -- first by neighboring states and then spread nationwide. These tax policies will deteriorate domestic economic relationships among the states in this country similar to the way international relationships have been harmed by economic and tax policies imposed on crude-oil by exporting nations. These policies hinder in the worst way the free flow of commerce; they disrupt political and economic relationships; produce only higher and higher levels of inflation and ultimately weaken or destroy the democratic institutions that have served so well the people of this country and many other nations throughout the world.

As you know, there are currently two measures before this legislature which would greatly increase the severance tax on coal mined in Montana. These proposals include HB #115 providing for a 20 percent tax and SB #13 which would increase severance tax on coal to 25 percent of the value.

The rural electric cooperatives, their fuels organization and our Consumer Members, who ultimately pay this tax just as

Let me say on behalf of all the consumer-owned groups for which I speak today -- we respectfully urge this Committee and the Montana Legislature to amend these bills and enact more reasonable proposals. We do not object to basing the tax levels on the quality of coal measured in terms of BTU content. We would strongly urge, however, that the tax levels not be increased excessively. We urge too that adequate revenue yielded by this tax be apportioned to the political subdivisions in the impacted areas.

As Montanans, we must remind ourselves that practically all of our state's important industries eagerly search for ways to expand and enlarge both interstate and international markets. Our producers and their organizations spend considerable sums of money to promote markets for Montana's prime quality beef and for our excellent hard northern wheat which is among the best produced in the nation. We look to Louisiana and dozens of other states to expand outlets for these products which are so vital to our state's economic stability and income of a majority of Montana's people. We must not legislate policies which would lead to economic "Cold War" among the states in these United States.

Let me thank you again for this opportunity to present our views, and again we urge you to amend these proposals so as to impose <u>reasonable and fair</u> taxes on coal mined in Montana.

consumers pay every other tax, recognize that the states in which this coal is severed should be fairly and equitably remunerated for the economic costs of mining these resources. As an example, our wholesale power generating cooperative, Basin Electric, in North Dakota where similar legislation is currently under consideration, has taken the position that such a tax should be held to a level of from 20 to 25 cents per ton. This same position has also been taken by a number of other cooperatives in North Dakota and in several other states throughout the rocky mountain and great plains regions.

It is certainly no secret that the price of some eastern coal during the recent coal strike increased very drastically and in some areas went as high as $40.00 per ton. Should such ridiculous price levels ever reach Montana, I dread to contemplate applying a 25 percent severance tax on top of such costs.

In this region and in our own state a number of long-term coal contracts have been signed recently that price coal at $5 to $6 per ton and higher. A 25 percent tax would simply mean that consumers of energy would be required to pay $1.25 to $1.50 or more on top of what are already high coal prices when compared to price levels of a few years ago. Such a tax is unrealistic and would have a very disrupting effect on the economy of this state and the country. It will further stimulate the rate of inflation that current Middle-Eastern oil exporting nations' pricing policies have so unfortunately produced. This is in fact similar to the action taken by the international oil cartel. Whatever tax is finally levied -- it will be paid by the electric consumer at the end of the line which includes everyone in this room.

TESTIMONY BEFORE THE MONTANA
HOUSE SUBCOMMITTEE ON TAXATION
March 11, 1975

My name is David Peterson. I work for Northern States Power Company, Minneapolis, Minnesota as Administrator of Fuel Procurement and my responsibilities include the delivered cost of fuel for the Company's power plants.

Northern States Power began using Montana coal in 1969 because it was felt that an alternative source of fuel was needed in addition to our traditional midwestern sources. Western coal seemed the logical source and the most economical area, on a delivered basis, at that time was Montana. In other words, our use of western coal was initiated for economic and reliability of supply reasons. By 1972, with the passage of the amendments to the National Clean Air Act and Minnesota air quality improvement laws, sulfur in fuel also became important to Northern States Powers. Northern States Power's Montana coal use was 2,500,000 tons in 1974.

The level of 25% of sales price for severance tax and 5% for gross proceeds tax as now proposed in Senate Bill 13 is most definitely inflationary and would require an increase in electric rates to our customers in Minnesota; secondly, the method of using percentage of sales price does have a pyramiding effect which would require paying taxes on taxes on taxes, etc. Currently the level of coal tax in Montana is one of the largest in the nation and as a matter of fact, the severance tax was raised by a factor of four during the 1973 legislative session.

If Senate Bill 13 were to be passed and enacted into law, the effect on Northern States Power's customers would be about $3,000,000/year now and $10,000,000/year by 1980 based on 1975 costs without pyramiding effects and definitely would require an increase in the price of electricity. In Mr. Towe's letter to the Billings Gazette of February 9, 1975, he stated Senate Bill 13 would add only 1.41% to the cost of the fuel delivered to the midwest. This is not true and is more like a ten to fifteen percent increase.

As an extreme example, let's look at what could happen if the proposed tax increase and others like it were to be enacted.

a. Montana increases coal tax as proposed.

b. Minnesota increases the tax on taconite by a factor of 10 (level of increase of coal taxes in Montana since 1973). Presently taconite taxes are equivalent to 10¢/ton of coal as a percent of finished product.

c. Oil and natural gas producing states raise domestic oil taxes substantially to equate to foreign oil prices.

d. The farm product producing states place a 100% tax on all farm goods exported from that state.

Ultimately, if the example were carried on, the prices paid for all products and services would add another steep inflationary spiral to the one already existing.

The point being that every state in the union should not grossly tax products produced simply because most of it is exported to another state. It just seems to me that we should consider national interests and needs instead of each city and state acting as an independent taxing body. We have all had enough of foreign nations taxing us to the ultimate and even beyond that which can be paid.

As I mentioned earlier, Northern States Power's long range use of coals from Montana has been based on economics as well as sulfur and with the continual pressures of rising taxes and royalties in Montana we and others using Montana coal may be forced to look elsewhere for our low sulfur coal supplies for future growth. If NSP and others were to obtain their coals from other areas, Montana could lose as much as $10,000,000 in state tax revenue per year at present levels. In addition, the loss in jobs could be very severe and most certainly would have an effect on the states economy in the long term.

Careful consideration must be given to all these factors before any new coal tax legislation is enacted. In closing I would like to emphasize that NSP is willing to carry its fair share of the costs for publicly funded governments and services required in Montana because of NSP utilizing Montana coal in its boilers. However, we think the proposed levels of taxation far exceed these needs and are therefore opposed to Senate Bill 13. Thank you.

March 11, 1975

Mr. Chairman and Members of the Committee:

My name is Pem Hutchinson and I work for Westmoreland Resources, which is headquartered in Billings, Montana. Production from our Sarpy Creek mine commenced on July 1, 1974.

I appear here before this committee in opposition to Senate Bill 13, both with respect to the level of taxation proposed in the severence tax and with respect to the pyramiding of taxes and royalties.

We are deeply concerned about the competitive nature of coal between states, but are deferring to the remarks of others in the interest of time. Suffice it to say, we believe Senate Bill 13 will place Montana coal at a significant competitive disadvantage.

The balance of my comments focus on the pyramiding of production taxes and royalties under Senate Bill 13. To illustrate the effects of pyramiding, we present the following example:

Assumed base case prior to Senate Bill 13

Price: $5 per ton

Includes:

$ .175	per ton royalty
.340	severance tax
.250	net proceeds tax (a)
.025	Resource Indemnity Trust Fund Tax (½ of 1%)
$ .790	per ton

Therefore, out of $5.00 per ton price, $.79 per ton is paid for production taxes and royalties.

(a) Note that $.25 per ton is utilized for conservatism and thereby lessens effect of pyramiding.

Conversion of base case to Senate Bill 13 using formula presented in Department of Revenue memorandum dated January 30, 1975:

Assumed case under Senate Bill 13

25.0%	severance tax
5.0%	gross proceeds tax (effective rate)
.5%	Resource Indemnity Trust Fund
8.0%	royalty (b)
38.5%	total

(b) We are using an 8% royalty because that is Westmoreland-Resource's royalty obligation on new sales. Also the House recently passed a bill placing a 12% royalty on state-owned coal. Finally, we believe the federal government will be leasing coal a percentage royalty.

Therefore, 38.5% in production taxes and royalties would depend on the sales price.

Utilizing the formula as presented in the Department of Revenue memo, the increase in price to the coal customer would amount to $2.34, net of existing taxes and royalties (i.e. $.79 per ton).

Of this $2.34 net increase,
- the tax and royalty increase before pyramiding = $1.14 per ton
- therefore, $1.21 per ton increase results from tax and royalty pyramiding.

Summary:

$5.00 original price per ton
1.14 tax and royalty increase before pyramiding
1.21 pyramiding of production taxes and royalties
$7.35 revised price

Now let us assume a cost increase of $1.00 per ton due to inflation on labor, supplies, and other costs, excepting taxes and royalties. In that case, the $1.00 increase would result in a tax and royalty increase before pyramiding of $.39 per ton and tax and royalty pyramiding of $.24 per ton.

Summary:

$5.00 original price per ton
2.34 conversion to new tax and royalty
1.63 cost for inflation
$8.97 new price per ton

Increase for these examples $3.97 per ton of which:

$1.00 cost increase for inflation
1.53 tax and royalty increase before pryamiding
1.44 pyramiding of taxes and royalties
$3.97

Of the $3.97 per ton increase, 39% was caused in these examples by taxes and royalties before pyramiding. Thirty six percent of the increase related to pyramiding.

In conclusion, we urge that taxes as a percentage of the sales price should be applied after deducting production taxes and royalties, as opposed to the approach in Senate Bill 13. We oppose pyramiding because it makes cost escalations under sales contracts difficult to calculate and administer, and because the tax structure should be simplified.

NAME Tom Cleveland Bill No. SB13

ADDRESS 706 N 29th Street Billings Date 3/11/25

WHOM DO YOU REPRESENT? Crow Tribe of Indians

SUPPORT _____ OPPOSE _____ AMEND Support Amendment

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY. For Indian CoC Tax Credit

Comments:

per written Statement

WESTERN ENERGY COMPANY

Estimated Contract Sales (000's)

Customer		1974	1975	1976	1977	1978
Montana Power Company						
J. E. Corette	Max	505	700	700	700	700
	Min	None	None	None	None	None
Colstrip 1 & 2	Max	None	700	1,900	3,000	3,000
	Min	None	700	1,500	1,500	1,500
Northern States Power Co.						
Riverside	Max	1,737	1,000	Contract Expired		
	Min	None	None			
Sherburne 1 & 2	Max	None	630	3,390	5,500	5,500
	Min	None	630	1,880	2,500	2,500
Wisconsin Power & Light						
Columbia 1 & 2	Max	178	2,300	2,300	4,600	4,600
	Min	None	1,600	1,600	3,200	3,200
Tennessee Valley Authority						
Shawnee	Max	90	160	Contract Expired		
	Min	None	160			
Great Lakes Coal & Dock						
Various	Max	363	409	389	389	339
	Min	None	376	356	356	312
Miscellaneous '74	Max	340				
TOTAL	Max	3,213	5,899	8,679	14,189	14,139
	Min	None	3,466	5,336	7,556	7,512

NAME Frances Satterthwaite Bill No. SB 13

ADDRESS 1523 Grizzly Gulch Dr. Date March 11, 1975

WHOM DO YOU REPRESENT? Mont. Inter-Tribal Policy B.

SUPPORT _____ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

If the amendment proposed by the Crow Tribe is accepted the Inter-Tribal Board would support this bill — If it is not accepted they stand in opposition to S.B 13

CROW TRIBAL COUNCIL

OFFICE OF THE CHAIRMAN
CROW AGENCY, MONTANA 59022

PATRICK STANDSOVERBULL, Chairman
JIGGS YELLOWTAIL, Vice Chairman
TYRONE TEN BEAR, Secretary
OLIVER HUGS, Vice Secretary
PHONE: Area Code (406) 638-2671 ext. 49 & 46

Crow Country

STATEMENT OF THE CROW TRIBE WITH REGARD TO THE
INDIAN COAL TAX CREDIT AMENDMENT TO SENATE BILL 13

It is our understanding at this time that Senator Thomas Towe will make an amendment to Senate Bill 13 which will allow a coal company a tax credit for each dollar paid by that company to an Indian Tribe pursuant to a properly enacted tribal mineral tax code.

As this amendment will eventually affect all Indian Tribes located in Montana, I feel some fear in speaking on such an important and significant issue. However, as Chairman of the Crow Tribe, I recognize that the Crows are likely to be first in experiencing the effect of such an amendment because our reservation is presently dealing with the issues of large scale coal development.

Recently my Tribe has made a decision to have our coal mined by Westmoreland Resources on the area known as the Sarpy Creek ceded strip. This is the only Crow coal being developed at the present time yet we are also considering our alternatives with regard to leases held by other companies for Crow coal deposits located on the reservation proper.

In the meantime, it is our desire to control and direct development of all Coal owned resources in a manner that will ensure our people the greatest cultural, social, economic and environment advantages and safeguards from such development. We have started to do this in amending our original leasing agreements with Westmoreland in a number of ways, but especially including a provision

We further believe the long range effects of pyramiding of taxes and royalties are unpredictable, especially with respect to competition among states.

We would be pleased to answer any questions this committee may have.

Respectfully submitted,

Pem Hutchinson
Westmoreland Resources
P. O. Box 1883
Billings, Montana 59103
Telephone 248-7803

(or contact Charlie Brinley
at 248-7803, Billings)

that Westmoreland Resources would not sell Crow owned coal for use in a conversion or mine-mouth facility that would be located within fifty miles of the present reservation boundaries. I voice the concern of a number of Crow people when I say that the idea of gasification plants or conversion facilities of any kind concerns us because of the undertermined effect they would have on our environment and on the Crow Tribe as a cultural and social entity. In requiring Westmoreland Resources to agree to this restriction we believe we have taken the first of many steps to insure orderly development of Crow coal resources in the ceded area.

Our concern about conversion plants does not just stop there. Presently we are in the process of drafting tribal regulations to provide basic environmental protections for the reservation proper. In so doing we feel that we are exercising our authority as a sovereignty within the boundaries of the Crow Reservation and at the same time complementing the State regulations that govern and control mineral development beyond our boundaries. Thus we see many areas of coal development in which we will have to and can cooperate with the state and county authorities. Among them are land use and taxation laws.

One of the points I wish to leave with you today is that the Crow Tribe has both the ability and authority to enact these provisions. Last fall, the Tribe appropriated Tribal matching funds and received a federal grant in the amount of $200,000.00 for the purpose of creating an independent Coal Research Office. That office is presently assessing the effect of the potentially massive coal development of Crow owned coal both on the reservation and the ceded strip. The office is compiling information to enact a land use plan and zoning code and is already at work on a tribal taxation code. Therefore, it is our desire to deal with these issues in a manner consistent with our economic and cultural growth and at the

same time attempt to reach an understanding with the State of Montana as to our respective goals and objectives and to assist each other when these goals are in fact complementary or mutual with each other.

Presently the Crow Tribal Office of Coal Research is working with the Old West Regional Commission through the Intergovernmental Relations to supply the Crow Tribe with much needed technical assistance.

In looking at development in total, it is necessary to explain why the taxation issue of all Crow owned coal is critical.

An analysis of the economic benefits to be derived from the mining of Crow owned coal shows that under the present Montana Taxation structure and the present Crow coal leases, the County of Big Horn will receive approximately 10% more in gross receipts taxes than the Tribe will in royalty rates and the State of Montana will receive over 100% more income from severance taxes than the Crow Tribe will receive in royalty payments.

Taxation revenues become critical in terms of the ability of the Crow Tribe to derive economic benefits from a limited amount of coal development. In other words if the Tribe is in a position to derive maximum economic benefit from a royalty and a tax schedule on Crow coal, the total amount of development could be better planned and controlled. Yet in order to provide the members of the Crow Tribe with much needed services and opportunities it will be necessary for the Crow Tribe to realize a stable tribal income. This tax income will mean an opportunity for financial self sufficiency and thus less dependent on outside resources such as county welfare, food stamps, and other state based financial services.

The most recent figures in 1969 show that the median Crow family income is $5,260, which is approximately $3,000.00 less than the median family income for a non-Indian family living on the Crow Reservation, and less than one-half the national income average.

The unemployment rate is 29.1% for eligible Crow Tribal Members of sixteen years and older, both male and female.

These figures were compiled by the Bureau of Indian Affairs in 1973 and do not reflect the loss of jobs created by the closure of the Big Horn Carpet Mill when approximately 105 Crow workers were terminated. 70% of the Crow population is under the age of thirty, and unless new employment is found the situation will worsen. This must not be allowed to continue.

Without any planned development there is a shortage of eight hundred homes on the reservation required for Indian families alone. Also, recently, the Crow Tribal Housing Authorities had plans to build two hundred homes for Crow people. These plans were indefinitely delayed by the inability to have adequate water and sewerage disposal facilities available. Thus, in order to meet the need for homes it may be necessary to incur the expense of setting up basic maintenance systems.

In addition, the complex questions of jurisdictions will increase with the influx of non-Indians onto the reservation. Money will be spent to enact adequate law enforcement codes and then acquire the machinery and personnel to effectively enforce such a code.

It is out position that in order to achieve our own goals and to achieve entire and complete cooperation and understanding with the State on the taxation issue, <u>that we must</u> have the ability to tax and receive benefits from all Crow owned coal whether it be on the reservation or in the ceded area. In this respect, we urge the Amendment to be inclusive of this issue. Furthermore, I would suggest with reference to the ceded area that the Crow coal ownership is only 14% in relation to 1.1 million acres in the ceded strip which includes:

9,000 acres of tribal land
17,000 acres of allotted land
45,000 acres of State land, and over
1,000,000 acres of private fee land

STATEMENT OF THE CROW TRIBE OF INDIANS
IN OPPOSITION TO SENATE BILL 13
PROVIDING FOR A SUBSTANTIAL INCREASE
IN MONTANA STATE COAL TAXES

TO: Members of the Montana Legislature

FROM: Pat Stands, Chairman, Crow Tribe of Indians
Robert Yellowtail, Jr., Vice-Chairman, Crow Tribe of Indians

Introduction

The Crow Tribe of Indians is currently establishing a plan for the development of its treaty reserved coal resources. A portion of the Crow Tribe's coal is presently being mined by Westmoreland Resources on an area north of the Crow Reservation called the "Crow Ceded Strip". Other mining operators hold permits and leases on the Ceded Strip and on the Crow Reservation. At this time the Crow Tribe is involved in a careful process of determining the extent to which its coal reserves should be mined. As a part of this decision making the Tribe is evaluating the social and environmental impacts of coal mining, side by side with the significant economic advantages which the Tribe will derive from mining. The Crow Tribe believes that significant social and environmental injury may occur if mining is undertaken without proper planning, and if a number of associated large-scale power generating facilities and conversion plants are constructed on or near the Crow Reservation. To that end the Crow Tribe has inserted in its leases with Westmoreland Resources and will insist as a condition to other mining that no power generating or conversion facilities can be developed without the express consent of the Crow Tribe.

The Crow Tribe believes that the State of Montana has an important governmental responsibility in the development of these Indian resources, particularly where the development takes place on the Crow Ceded Strip where the surface is controlled by non-Indians. The role of the State of Montana is substantially reduced where development takes place on the Crow Reservation, for under long-standing principles of federal law the Crow Tribe retains important sovereign Indian powers, and exercises governmental and proprietary jurisdiction over the people and property within its reservation. Of course, on the Reservation, the Crow Tribe and the United States are responsible for providing nearly all governmental expenditures required by the Crow people.

Given the Crow Tribe's status as the owner of large coal reserves, and as the governmental body primarily responsible for controlling mining on or near the Crow Reservation, we are very disturbed about the levels of taxation proposed in Senate Bill 13. We basically have two objections to the taxes proposed in that

The state will receive the bulk of taxes in the ceded area and I doubt whether an extension of the amendment to this coal would impair the State in any manner. On the other hand, it would allow us to achieve total economic growth and benefit.

In short, we are in favor of an amendment to this bill that recognizes Crow ownership of coal on the reservation and allows receipt of tax revenue by the Tribe without a lengthy and costly dispute between the Tribe and the State of Montana.

However, the Tribe believes that it should receive the tax revenue from all Crow owned coal whether on the reservation or on the ceded strip. Among our considerations and study on this matter are the following facts:

1. The Fort Laramie Treaty of 1868 reserved mineral rights to the Crow Tribe in all lands contained in the grant which at that time included the ceded strip area.
2. The Cessation Act of 1904 ceded the surface of the Sarpy Creek area, but did not disturb the trust status of the mineral estate.
3. Thus, the mineral estate in the ceded area remains trust property, ostensibly immune from state authority and certainly worthy of the same coverage by this amendment that is given to minerals held in trust but underlying the reservation proper.
4. A bill has been introduced in Congress that would clarify any confusion in the area of joint taxation of tribal minerals by the Tribe and the State by allowing a tax credit for taxes paid a Tribe by a coal producer on all minerals held in trust.
5. The severance tax by its very nature is a tax on the mineral itself and its contemplated loss as a tangible natural resource. Since the State does not

senate bill: (1) that they are so out of line with taxes imposed by other neighboring states that Crow coal will no longer be competitive and therefore our coal development program will suffer, and (2) that the taxes bear no relation to the responsibilities and burdens which coal development has imposed on the State of Montana -- indeed insofar as these taxes would relate to coal development on the Crow Reservation they may constitute not merely high taxation, but a "taking" of private treaty-reserved Indian coal.

A. Economic Aspects

Crow coal competes with coal which is mined at Colstrip, Montana and Decker, Montana, and in the Powder River Basin of Northern Wyoming. To date the primary customers of these mining operations have been middle western and southern utilities which have purchased the coal for delivery for burning in their power generating facilities. The transportation costs are very large and as a result the minor differences in transportation costs between the coal mined in Montana and coal mined in Wyoming play a significant role in determining the overall price of the coal and therefore the overall competitiveness of the coal. Also the quality of the coal as well as the reclamation fees and state taxes placed on the coal become significant in determining the economics of mining Montana coal. Generally speaking Crow coal is of comparable quality with most Wyoming coal although it is of lower quality than coal being mined in Decker, Montana. At the same time, the reclamation costs imposed by the State of Montana on Crow coal presently being mined on the Crow Ceded Area as well as the existing State of Montana taxes impose costs on the selling price of Crow coal which are substantially in excess of costs imposed by the neighboring states. We are concerned about the current status of these unequal costs. We believe that to substantially increase the taxation of Montana coal will be to seriously jeopardize the ability of the Crow Tribe and its mining operators to sell coal in the marketplace.

It is our understanding that the Montana Legislative Interim Committee on Coal Taxes published comparative state coal tax numbers for the year 1973 and found the following figures: State of Montana, 12.4% of gross value of coal for all state coal taxes; State of Wyoming, 6.8% of gross value of coal for all state coal taxes; State of Kentucky, 5.5% of gross value of coal for all state coal taxes; North Dakota, negligible taxation.

It can be seen from these figures developed by a Montana legislative committee that through 1973 the State of Montana imposed taxes which were almost twice that imposed by its nearest competitor, the State of Wyoming. It is our understanding that Senate Bill 13 would operate to substantially increase this total package of state taxation. The calculations which we have made suggest that on new tonnages selling for approximately $5.00 a ton, the Montana license or severance tax would jump from the

present figure of approximately 34¢ per ton on BTU coal of the quality being mined by the Crows to a figure of $1.25. Our figures would also suggest that the present net proceeds tax which is imposed by the counties of the State of Montana would substantially increase in future years from the present approximate figure of 25¢ per ton. In effect, if Senate Bill 13 were to be enacted we could project that for the year 1975 Montana taxes would be in excess of $1.50 per ton of coal mined. This figure would approximate 30% of the gross mine value of the coal.

We find this proposed tax to be prohibitory. We do not believe that it bears any relationship to the costs to the State of Montana which will result from strip mining. When it is remembered that the State of Montana is already exacting substantial fees to cover the cost of reclamation for lands subject to mining, it becomes clear that the only other legitimate state interest which the State of Montana has, aside from reclamation, is in the social impact which mining has. We have learned while planning development of our coal reserves that the social implications from mining vary tremendously from operation to operation. Thus for example, there is relatively little social impact from the establishment of a mine when the coal is to be delivered out of state, whereas if there is developed an associated power complex or conversion facility then a substantially increased social impact occurs. We cannot believe, therefore, that simply imposing a large tax against the mining of coal itself can be justified.

To the extent the State of Montana has a legitimate governmental concern about the social and environmental impacts resulting from mining, taxation of that mining to pay the costs resulting from mining is justified. However, we do not believe that the proposed taxes which will result in taxation four times greater than being imposed by any other state, are justified. Rather than imposing an arbitrary and blanket tax on all coal mining, we would suggest that the State establish a method of imposing coal taxes so that the tax imposed would bear a direct relation to the social costs involved in mining and in the associated uses of the coal.

B. Indian Treaty Right Aspects

The Crow Tribe objects to the proposed taxes contained in Senate Bill 13 not only because we believe that they will place Crow coal in an uncompetitive position and are unwarranted in terms of the legitimate state interests involved, but also because the Crow Tribe believes that this level of taxation is so high that it creates a serious likelihood that Crow coal cannot be marketed. If that is the case, the coal tax becomes an unauthorized state interference with federally secured Indian property. Federal law will not allow such an unauthorized interference. Indeed, in the Montana Enabling Statute, Act of May 21, 1864, Chapter 95, 1st Sess., 38th Cong., the United States conditioned the admission of the State of Montana into the Union on the

Native American Rights Fund

Senator Thomas Towe of Billings, who introduced Senate Bill 13, agreed with our concerns and has offered to introduce two amendments which would clarify the scope of the Montana severance tax enactments now being considered. Specifically, he will introduce an amendment providing that where coal is mined on a federally recognized Indian reservation the coal operator will receive a credit against Montana severance taxes for each dollar paid an Indian tribe pursuant to a federally approved tribal mineral tax. In this way the operator will be under the same tax burden but the revenues will go into the hands of the tribal government which will use the coal tax revenues to upgrade tribal governmental services. Secondly, Senator Towe agreed to offer an amendment to his Senate Bill 87 creating a local impact and education trust fund account to allow Indian tribal governments to qualify for grants to be awarded local governmental units to assist such units in meeting the local impact of coal development, when undertaken off the reservation.

We urge that you support these amendments. We believe that they are consistent with the competing federal Indian and state interests in the State of Montana and they allow Indian tribes whose coal reserves may be mined to obtain funds to upgrade Indian governmental services so badly needed on Montana's reservations. We would urge that these amendments be incorporated into whatever new severance tax bill is adopted by the Montana Legislature. As a result, if the House amends Senate Bill 13 and Senate Bill 87 or adopts alternative taxation, we would be most appreciate of any assistance you might be able to provide to assure that this tax credit provision is adopted.

I personally look forward to meeting with you again. I believe that it is in the best interests of the Crow Tribe of Indians and the State of Montana to work closely together to design coal development legislation which protects the interests of both the State of Montana and Montana Indians.

We would like to accept your invitation to present our views before the House Taxation Committee. At that time we would like to emphasize that in our judgment the severance tax legislation to be enacted this session should contain provisions recognizing the special nature of Indian coal and the special responsibilities of Indian tribal governments.

Thank you very much for your consideration.

Very truly yours,

Daniel Israel

Daniel H. Israel

DHI:ef

TAXATION COMMITTEE

March 27, 1975

Chairman Ora J. Halvorson called the subcommittee on Senate Bill 13 to order at 8:30 a.m. in room #108, Capitol Building, Helena. Reps. E. N. Dassinger and David Aageson committee members were present.

Amendments, copy of which are marked Exhibit A, attached hereto were discussed. Rep. Dassinger moved that they be not adopted. Motion carried with Reps. Aageson and Dassinger voting Yes, and Rep. Halvorson voting against the motion.

The feeling was that there would have to be court decreed settlements regarding Indian coal revenues.

Rep. Dassinger moved acceptance of an amendment allowing 5,000 tons of coal to be produced in a quarter-year without taxation. Motion carried unanimously.

Rep. Dassinger moved that the pyramiding effect in SB 13 be removed. Motion failed with Reps. Halvorson and Aageson voting No, and Rep. Dassinger voting Yes.

Rep. Halvorson moved that Senate Bill 13 with the suggested amendments come out of the subcommittee with no recommendation. Motion carried with Reps. Halvorson and Aageson for the motion, and Rep. Dassinger against the motion.

Meeting adjourned at 8:50 a.m.

Ora J. Halvorson

REP. ORA J. HALVORSON, Chairman

jl

SENATE BILL NO. 13

An amendment to provide a credit against state severance taxes for tax payments made pursuant to a federally approved Indian Tribal Tax.

Be amended in the third reading copy of the bill as follows:

1. Amend page 9, line 5
Following: "both."
Insert: A new section to be known as Section 13 to read as follows: "Section 13. ~~chapter~~ act A credit against the state severance taxes provided for in this shall be granted the producer of coal for each dollar paid an Indian tribe pursuant to an approved tribal tax if the following conditions are met:

(a) The coal produced is held in trust by the United States for the benefit of a federally recognized Indian tribe or Indian allottee,

(b) The coal is produced within the boundaries of a federally recognized Indian reservation,

(c) The Indian tribe has enacted a tribal mineral tax which has been approved by the Secretary of the Interior, and

(d) The revenues received from the tribal mineral tax will be used to upgrade tribal governmental services including a provision for financing needed services caused by any local impact caused by coal development and a provision investing a portion of the revenue for the benefit of future generations.

2. Amend on page 9, line 6
Renumbering "13" to become "14"

3. Amend on page 15, line 24
Renumbering "14" to become "15"

4. Amend on page 16, line 25
Renumbering "15" to become "16"

5. Amend on page 20, line 6
Renumbering "16" to become "17"

6. Amend on page 20, line 12
Renumbering "17" to become "18"

HOUSE OF REPRESENTATIVES

March 27, 1975

HOUSE COMMITTEE ON TAXATION AMENDMENTS TO SENATE BILL 13

Amend in the third reading copy as follows:

1. Amend in the title, page 1, line 11.
Following: "84-302,"
Insert: "84-1309.1,"

2. Amend in the title, page 1, line 12.
Following: "84-1309,"
Strike: "84-1309.1,"

3. Amend page 3, section 2 (1)(a), lines 19 to 23.
Following: "mine,"
Strike: "including reserves collected for payment of taxes subsequently determined, but not including any tax on the coal which is not determined at the time of sale and for which the seller does not collect reserves at the time of sale"
Insert: "excluding that amount charged by the seller to pay taxes paid on production"

4. Amend page 4, section 2, line 11.
Following: Subsection (7)
Insert: New subsection (8)
"(8) "Taxes paid on production" include any tax paid to the federal, state, or local governments upon the quantity of coal produced as a function of either the volume or the value of production, and do not include any tax upon the value of mining equipment, machinery, or buildings and lands, any tax upon a person's net income derived in whole or in part from the sale of coal, or any license fee."

5. Amend page 5, section 3, lines 4 through 7.
Following: "price."
Strike: "A person who produces less than ~~one~~ FIVE thousand ~~two-hundred-fifty-(1,250)~~ (5000) tons of coal in a quarter-year is not liable for any severance tax on that production."
Insert: "A person is not liable for any severance tax upon the first five thousand (5,000) tons of coal he produces in a quarter-year."

6. Amend page 7, section 7, lines 3 through 7.
Strike: Section 7 in its entirety.
Insert: New section 7.
"Section 7. Section 84-1309.1, R.C.M. 1947, is renumbered 84-1319, and is amended to read as follows:
"~~84-1309.1~~ 84-1319. Disposal of license or severance taxes. License or severance taxes collected under the provisions of this chapter or such sections as may enact a severance tax on coal in 1975 are allocated as follows:

HOUSE COMMITTEE ON TAXATION AMENDMENT TO SENATE BILL 13

(1) To the county ~~general fund~~ for such purposes as the governing body of that county may determine from which coal was mined three cents (3¢) per ton; provided, however, for each calendar year prior to January 1, 1980, this amount shall be three cents (3¢) per ton or five percent (5%) of the contract sale price of the coal mined in that county, whichever is higher.

(2) To the earmarked revenue fund, such portions of the severance tax as may be authorized by laws enacted in 1975.

~~(2)~~ (3) All other revenues from license or severance taxes collected under the provisions of this chapter shall be deposited to the credit of the general fund of the state."

7. Amend page 20, section 17, line 13.
Following: "84-1309,"
Strike: "84-1309.1,"

AS SO AMENDED
BE CONCURRED IN

other nine members voted Aye. So SENATE BILL 13 AS SO AMENDED BE CONCURRED IN. Rep. Dassinger will carry on the floor.

Meeting adjourned at 10:00 a.m.

REP. DAN YARDLEY, Chairman

TAXATION COMMITTEE

March 27, 1975

Chairman Dan Yardley called the committee to an executive session at 9:05 a.m. in room #108, Capitol Building, Helena. All members were present.

Rep. Ora Halvorson, chairman of the subcommittee, reported SB 13 out of committee with recommendation that amendment on severance tax be adopted. The Indian amendments, copy of which is attached, were rejected because the committee felt they did not want to make this sort of statement since there are currently pending court actions and it might bias the court one way or the other. There are many complicated problems involved. The severance tax collected from Indian coal was to be given back to the tribes, and then was amended to restrict that the money be used for certain purposes only. The coal was to be taxed at the same rate as state coal. The problem arose as to whether the legislature could tax Indian coal and have authority to say how it could be used.

Rep. Bill Thomas moved that amendment #5 on the attached amendment page, allowing 20,000 tons of coal per year to be mined tax-free be adopted. Motion carried unanimously.

Rep. Halvorson moved that pyramiding be left in the bill as it was. Rep. Dassinger made a substitute motion that pyramiding, amendment #4, be deleted. Motion carried. Rep. Halvorson's motion failed.

Rep. Johnson moved that the taxation rate be 30%. Motion failed with Reps. Johnson, Kemmis, Fabrega, Teague voting Aye, and the other 11 members voting No.

Rep. Edward Lien made a substitute motion that the taxation rate be set at 20%. Motion failed with Reps. Hager, Lien, Fagg, Halvorson, Aageson, Anderson voting Yes; and the other nine members voting No. (The interim committee did not set a rate, but the other language in the bill is from the committee report.)

Rep. J. Melvin Williams thought that with the pyramiding clause deleted, the taxation rate should be left at 25%.

Rep. Dassinger made a substitute motion that the taxation rate be set at 28.5%. Motion failed, ten to five.

Rep. Williams moved that amendments #1, 2, 6 and 7 be adopted. Motion carried unanimously.

Rep. Dassinger moved that SENATE BILL 13 AS SO AMENDED BE CONCURRED IN. This would include amendment #3. Motion carried with Reps. Hager, Anderson, Johnson, Lien, Fabrega, Teague voting No, and all

understanding that the State of Montana would not impair the rights of Indian property and persons existing within its boundaries. This lack of state jurisdiction over Indian property and Indian persons has been recognized on numerous occasions. Kennerly v. District Court of Montana, 401 U.S. 423 (1971); McClanahan v. Arizona State Tax Comm'n, 411 U.S. 164 (1973). Indeed, federal law recognizes that Indian property interests are to be likened to private property interests protected from arbitrary taking by the Fifth Amendment to the United States Constitution. United States v. Santa Fe Pacific R.R. Co., 314 U.S. 339 (1941); 25 U.S.C. §§ 70, et seq.

To the extent that the State of Montana may have a legitimate governmental interest in imposing taxes on Indian mineral development, clearly the State cannot tax beyond a level which is justified in terms of the state costs incurred as a result of such mining. Whatever legal restrictions may be imposed on the State of Montana with respect to the taxation of non-Indian minerals, clearly an even greater limitation exists with respect to the taxation of Indian minerals. Indian minerals have a unique legal status. Unlike coal resources owned by private individuals or by state or federal governments, tribal and individual Indian coal deposits have been reserved by federal treaties. Pursuant to such treaties these mineral rights are held in trust by the United States for the Indian beneficiaries. The Crow Indian Tribe owns coal reserved by it in treaties with the United States concluded in 1851 and 1868. The reservation of these mineral rights constituted an important consideration to the Tribe in agreeing to cede large areas of territory to the United States. It is these large areas which subsequently became portions of the States of Montana and Wyoming. Imposition of excess state coal taxes would be inconsistent with the provisions of these treaties, and would place the coal tax policies of the State of Montana in conflict with significant federal policies relating to the protection of Indian trust properties and the encouragement of Indian economic development.

We believe there is no justification for allowing the State of Montana to reap a large tax windfall because the State's territory abuts the Reservation of the Crow Tribe which is rich in coal deposits. We have expressed in the past a willingness to work with the State of Montana so as to assure that mining development on or near the Crow Reservation will be undertaken in a way which will minimize the environmental and social impacts. In opposing Senate Bill 13 we do not intend to dislodge the State of Montana from its proper governmental responsibilities -- we seek only to demonstrate that the tax levels proposed in Senate Bill 13 bear no relation to legitimate Montana state interests, and threaten to jeopardize the right of the Crow Tribe of Indians to exploit its treaty-reserved trust minerals.

MILES CITY AREA Chamber of Commerce

P.O. Box 730 • Miles City, Montana 59301 • Dial 232-2890, Code 406

2/24/75

Rep. Dan Yardley, Chairman
House Taxation Committee
Montana House of Representatives
Capitol Post Office
Helena, Montana 59601

SENATE BILL 13 - SETTING COAL TAX AT 25% OF SALE PRICE

The above bill has been passed by the Senate and referred to your committee in the House, Representative Yardley. We have studied the bill and have identified what we believe to be an oversight or error in it, which the Miles City Area Chamber of Commerce desires be corrected by amendment.

The theory of a 25% tax on the sales price of coal is that the higher quality coal sells at a higher price, and therefore the tax is greater on higher quality coal. That is not true, particularly in the coal mined by the Knife River Coal Company which is then sold to it's parent Montana Dakota Utilities. This coal comes from a mine ~~at~~ Savage, Montana, and is burned in the electrical generating plant at Sidney, Montana, and provides the power for a significant geographical area of southeastern Montana.

Because of the overburden depth at Savage, and the gravel layer in the overburden, the costs of mining the coal are at least as great, and perhaps greater than the mining of coal at Colstrip, Sarpy Creek, and South. It is only practical for MDU to continue it's mining operation because it has made the capital investment, and because it owns the coal, which it sells from the subsidiary mining company to the parent, thus must pay the sales tax on.

The coal used by MDU is under 7,000 BTU, whereas the Colstrip coal is much higher quality, and SB13 shows a minimum "cents" tax based upon the varying grades, but applies the percentage of tax uniformly at 25%. We would propose that the percentage for 7,000 BTU and under be changed to 12½%, and would accept a stipulation that this percentage only apply to coal mined for consumption in Montana.

It is our belief that the State of Montana does not desire to obtain the higher revenues from coal taxation at the expense of Montanan's pocketbooks, but instead wish to get a fair return to the state coffers from out of state sources. In the case of MDU, as we have cited, their only alternative would be to pass the higher tax onto their users in higher rates. We have asked our Representatives to assist you in amending the above bill, and thank you for your consideration.

TOM W. CLARK, Legislative Chmn.

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24 February 1975

Mr. Daniel Yardley, Chairman
House Tax Committee
State Capitol
Helena, Montana 59601

Dear Mr. Yardley:

On behalf of the Crow Tribe of Indians I want to thank you very much for the time which you spent with us last week. As we indicated to you, we are most concerned that the Montana mineral tax policies reflect the special status of Indian coal and the special needs of Montana Indian tribes.

As you know, we came to Helena to explain to the Montana Legislature why we were disturbed by the high level of taxation proposed in Senate Bill 13. We explained that we did not feel that it was right for the State of Montana to tax Crow treaty coal at a level whereby the state would be receiving three times as much revenue from the tax as the Tribe would from its royalty. We further suggested that such state taxation might interfere with the ability of the Crow Tribe to undertake development of its mineral resources and as a result might interfere with federal Indian policies which have historically been oriented toward allowing Indians to develop Indian resources free of state interference.

In our conversations with many legislators and with State of Montana officials it became apparent that the state intended to allow the Crow Tribe to develop its resources on the Crow Reservation without interference from the state. As a result we discussed with legislators ways in which coal development on Indian reservations in Montana could be undertaken pursuant to tribal reclamation and tax ordinances which mirrored those being adopted by the state. Utilization of such an approach would result in coal operators being treated similarly whether they developed coal on or off Indian reservations and would recognize that Indian tribal governments have governmental responsibilities on Indian reservations which are similar to the responsibilities of the State of Montana off the reservations.

own the resource, the State cannot really suffer a loss by the failure to include the minerals held in trust for the Crow Tribe on the ceded area; a mere 14% of the total mineral ownership on the ceded strip.

Aside from these very technical reasons there are a number of practical and tangible reasons why the Crow Tribe should receive tax revenue from all tribally owned coal. We are poor people, with a per capita income far below the non-Indian average in the State. As a Tribe we must perform all governmental responsibilities for our people as the State does for its citizens.

This is a costly project as well as an essential one when massive coal development represents the most immediate means of economic improvement to our tribal members but at the same time it represents the fear that our society will be extinguished by a large influx of non-Indians onto our reservation. Our people as a whole are not well educated and are not totally aware of the overall effects of coal development. They look upon the offers of coal companies only in terms of financial betterment and it is difficult to see the total picture when your home is not well heated, when there is not sufficient food on your table, nor clothes on your back.

There is unjust irony in the fact that many Crow people run out of fuel in the winter and travel many miles to Sheridan for coal when the vast deposits be under our very lands.

As the State knows, the companies will get rich and with these taxes the State also will increase its coffers but the Indians will remain the same. Some things must change and this is the time for the change to occur with respect to this issue.

Personally, I am frustrated by the need and demand of my people for more income on the one hand and the need to go slowly in

the area of massive coal development in order that there be orderly and controlled development. The present royalties that the Tribe receives is not sufficient to satisfy these two needs. With the added revenue that taxation of Crow owned coal pursuant to a tribal taxation code, I believe we have an opportunity to satisfy immediate needs and sustain an orderly plan of development. Thus, the contents of this amendment are important to us and we urge that you give it careful and thorough consideration with these thoughts in mind.

Thank you.

DATED this_____day of March, 1975.

Submitted by

_____
Patrick Stands Over Bull

Attest:

_____
Robert Yellowtail, Jr.

SENATE BILL NO. 13

INTRODUCED BY TOWE, CETRONE, NORMAN, R. SMITH, CONOVER, WATT, COLBERG, FOSTER, BLAYLOCK, REGAN, ROMNEY

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TAXATION OF COAL PRODUCTION; PROVIDING FOR A SEVERANCE TAX ON COAL PRODUCED AT ~~TWENTY-FIVE--PERCENT--(25%)~~ TWENTY-EIGHT AND ONE-HALF PERCENT (28.5%) OF VALUE; DELETING COAL FROM THE PROVISIONS TAXING THE NET PROCEEDS OF MINES; PROVIDING FOR TAXATION OF THE GROSS PROCEEDS FROM COAL AS AN ELEMENT IN THE PROPERTY TAX SYSTEM; AMENDING SECTIONS 84-301, 84-302, 84-1309.1, AND 84-5402; AND REPEALING SECTIONS 84-1301 THROUGH 84-1309, ~~84-1309.1,~~ 84-1310, AND 84-1311, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Legislative findings and declarations of purpose. (1) The legislature finds that while coal is extracted from the earth like metal minerals, there are differences between coal and metal minerals such that they should be classified in different categories for taxation purposes. The legislature finds that while coal can be utilized like petroleum products, there are differences between coal and petroleum such that they should be classified in different categories for taxation purposes.

REFERENCE BILL

The legislature further finds that:

(a) coal is the only mineral which can supply energy while being easily found in abundance in Montana;

(b) coal is the only mineral which is so often marketed through sales contracts of many years' duration;

(c) coal, unlike most minerals, varies widely in composition and consequent value when marketed;

(d) coal in Montana is subject to regional and national demands for development which could affect the economy and environment of a larger portion of the state than any other mineral development has done;

(e) coal in Montana, when sub-bituminous and recoverable by strip mining, is in sufficient demand that between one-fourth (1/4) and one-third (1/3) of the price it commands at the mine may go to the economic rents of royalties and production taxes;

~~(f)--coal-in-the-lignite-form-is--in--less--demand--and producers--of--lignite--are--able--to--pay-lesser-amounts-of royalty-and-production-tax-than-producers-of--sub-bituminous can-pay;~~

~~(g)~~--(F) coal produced in underground mines has higher production costs and underground producers are able to pay lesser amounts of royalty and production tax than strip-mine producers can pay;

~~(h)~~--(G) coal production in Montana has been subject

to an uncoordinated array of taxes which overlap one another and yield revenue in an inconsistent and unpredictable manner.

(2) The legislature declares that the purposes of this chapter are:

(a) to allow the severance taxes on coal production to remain a constant percentage of the price of coal;

(b) to stabilize the flow of tax revenue from coal mines to local governments through the property taxation system;

(c) to simplify the structure of coal taxation in Montana, reducing tax overlap and improving the predictability of tax projections; and

(d) to accomplish the foregoing purposes by establishing categories of taxation which recognize the unique character of coal as well as the variations found within the coal industry.

Section 2. Definitions. As used in this chapter -- (1) "Contract sales price" means either (a) the price of coal extracted and prepared for shipment f.o.b. mine, ~~including reserves--collected--for--payment--of---taxes---subsequently determined,--but--not-including-any-tax-on-the-coal-which-is not-determined-at-the-time-of-sale-and-for-which-the--seller does-not-collect-reserves-at-the-time-of-sale~~ EXCLUDING THAT AMOUNT CHARGED BY THE SELLER TO PAY TAXES PAID ON

PRODUCTION, or (b) a price imputed by the department under section ~~7~~ 6 of this act.

(2) "Energy conversion process" includes any process by which coal in the solid state is transformed into slurry, gas, electric energy, or any other form of energy.

(3) "Produced" means severed from the earth.

(4) "Strip mining" or "surface mining" is defined in section 50-1036.

(5) "Underground mining" means a coal mining method utilizing shafts and tunnels, and not regulated under section 50-1039.

(6) "Ton" means two thousand (2,000) pounds.

(7) "Department" means the department of revenue.

(8) "TAXES PAID ON PRODUCTION" INCLUDE ANY TAX PAID TO THE FEDERAL, STATE, OR LOCAL GOVERNMENTS UPON THE QUANTITY OF COAL PRODUCED AS A FUNCTION OF EITHER THE VOLUME OR THE VALUE OF PRODUCTION, AND DO NOT INCLUDE ANY TAX UPON THE VALUE OF MINING EQUIPMENT, MACHINERY, OR BUILDINGS AND LANDS, ANY TAX UPON A PERSON'S NET INCOME DERIVED IN WHOLE OR IN PART FROM THE SALE OF COAL, OR ANY LICENSE FEE.

Section 3. Severance tax -- rates imposed -- exemptions. A severance tax is imposed on each ton of coal produced in the state, in accordance with the following schedule:

Heating quality	Surface	Underground

(Btu per pound of coal):	Mining	Mining
Under 7,000	12 cents or ~~25%~~ 28.5% of value	5 cents or 3% of value
7,000-8,000	22 cents or ~~25%~~ 28.5% of value	8 cents or 4% of value
8,000-9,000	34 cents or ~~25%~~ 28.5% of value	10 cents or 4% of value
Over 9,000	40 cents or ~~25%~~ 28.5% of value	12 cents or 4% of value

The formula which yields the greater amount of tax in a particular case shall be used at each point on this schedule. "Value" means the contract sales price. ~~A person who produces less than one five thousand two hundred fifty (1,250) (5,000) tons of coal in a quarter-year is not liable for any severance tax on that production.~~ A PERSON IS NOT LIABLE FOR ANY SEVERANCE TAX UPON THE FIRST FIVE THOUSAND (5,000) TONS OF COAL HE PRODUCES IN A QUARTER-YEAR.

Section 4. Quarterly statement and payment of tax. Each coal mine operator shall compute the severance tax due on each quarter-year's worth of production on forms prescribed by the department. The statement shall indicate the tonnage produced, the average Btu value of the production, the contract sales price received for the production, and such other information as the department may

require. The completed form in duplicate, with the tax payment, shall be delivered to the department not later than thirty (30) days following the close of the quarter. The form shall be verified by an officer of the coal mine operator. A person operating more than one coal mine in this state may include all of his mines in one statement.

Section 5. Annual testing of samples. The Montana state bureau of mines and geology shall test coal production subject to this chapter and may make rules governing the collection of test data. A person subject to this chapter shall submit to the bureau on or before August 1 each year a sample of mine run "as is" coal from each mine producing that year. Additional samples shall be submitted at the request of the bureau. The bureau shall compute the Btu per pound of each sample received and forward this information to the department prior to September 1 each year.

Section 6. When value of coal may be imputed; procedure. In a case where

(a) the operator of a coal mine is using the produced coal in an energy conversion process, or

(b) a person sells coal under a contract which is not an arm's-length agreement, or

(c) a person neglects or refuses to file a statement and tax return under this chapter, the department may impute a value to the coal which approximates market value f.o.b.

mine. When imputing value, the department may apply the factors used by the federal government under 26 U.S.C. section 613, or that provision as it may be labelled or amended, in determining gross income from mining, or the department may apply any other or additional criteria it considers appropriate. Each subject taxpayer shall, upon request by the department, furnish a copy of its federal income tax return, with any amendments, filed for the year in which the value of coal is being imputed and copies of the contracts under which it is selling coal at the time. When the department's estimate of market value is contested in any proceeding, the burden of proof is on the contesting party.

~~Section 7. Disposition of revenue. Severance taxes collected under this chapter are allocated as follows:~~

~~(1) To the county general fund from which coal was mined three cents (3¢) per ton; and~~

~~(2) The balance to the general fund of the state.~~

SECTION 7. SECTION 84-1309.1, R.C.M. 1947, IS RENUMBERED 84-1319, AND IS AMENDED TO READ AS FOLLOWS:

"~~84-1309.1~~ 84-1319. Disposal of license or severance taxes. License or severance taxes collected under the provisions of this chapter or such sections as may enact a severance tax on coal in 1975 are allocated as follows:

(1) To the county ~~general fund~~ for such purposes as the

governing body of that county may determine from which coal was mined three cents (3¢) per ton; provided, however, for each calendar year prior to January 1, 1980, this amount shall be three cents (3¢) per ton or five percent (5%) of the ~~contract sale price of~~ SEVERANCE TAXES PAID ON the coal mined in that county, whichever is higher.

(2) To the earmarked revenue fund, such portions of the severance tax as may be authorized by laws enacted in 1975.

~~(2)~~ (3) All other revenues from license or severance taxes collected under the provisions of this chapter shall be deposited to the credit of the general fund of the state."

Section 8. Reporting gross proceeds from coal. Each person engaged in mining coal must, on or before March 31 each year file with the department a statement of the gross yield from each coal mine owned or worked by such person in the preceding calendar year, and the value thereof. The statement shall be in the form prescribed by the department of revenue, which may be coordinated with the form used under section 5 of this act, and must be verified by an officer of the firm. The statement shall include:

(1) The name and address of the owner or lessee or operator of the mine.

(2) The location of the mine.

(3) The tons of ore extracted, treated, and sold from the mine during the taxable period.

(4) The gross yield or value in dollars and cents derived from the contract sales price.

Section 9. Transmission of gross proceeds from coal to county assessor. On or before July 1 each year the department shall transmit to the county assessor of each county in which coal mines are situated, the valuation of the gross proceeds of such mines for the purpose of taxation, as the same have been determined by the department. The county assessor shall immediately enter the same upon a suitable assessment roll, the form of which shall be prescribed by the department.

Section 10. Taxation of gross proceeds from coal. The county assessor shall prepare from the reported gross proceeds from coal a tax roll, which he shall transmit to the county treasurer on or before September 15 each year. The county treasurer shall proceed to give full notice thereof to each coal producer and to collect the taxes due within sixty (60) days after mailing.

Section 11. Lien of tax -- enforcement of payment. The tax on gross proceeds from coal shall be levied as taxes on other forms of property, and this tax and the severance tax on coal production are each a lien upon the coal mine and a prior lien upon all personal property and improvements

used to produce the coal. These taxes may be collected by the seizure and sale of the personal property on which the tax is a lien, as provided under sections 84-4202 through 84-4211, or by suit under sections 84-4301 through 84-4302.

Section 12. Penalties for neglect or false statement. A person who fails, neglects, or refuses to file any statement required under this chapter, or who makes a false statement commits a misdemeanor. A person convicted under this section shall be fined not to exceed one thousand dollars ($1,000) or be imprisoned in the county jail for any term not to exceed six (6) months, or both.

Section 13. Section 84-301, R.C.M. 1947, is amended to read as follows:

"84-301. Classification of property for taxation. For the purpose of taxation the taxable property in the state shall be classified as follows:

Class One. The annual net proceeds of all mines and mining claims, <u>except coal mines,</u> after deducting only the expenses specified and allowed by section 84-5403; also where the right to enter upon land, to explore or prospect, or dig for oil, gas, coal or mineral is reserved in land or received by mesne conveyance (exclusive of leasehold interests), devise or succession by any person or corporation, the surface title to which has passed to or remains in another, the state department of revenue shall

determine the value of the right to enter upon said tract of land for the purpose of digging, exploring, or prospecting for gas, oil, coal or minerals, and the same shall be placed in this classification for the purpose of taxation.

Class Two. All agricultural and other tools, implements and machinery, gas and other engines and boilers, threshing machines and outfits used therewith, automobiles, motor trucks and other power-driven cars, vehicles of all kinds except mobile homes, boats and all watercraft, harness, saddlery and robes and except as provided in Class Five (b) of this section, all poles, lines, transformers, transformer stations, meters, tools, improvements, machinery and other property used and owned by all persons, firms, corporations, and other organizations which are engaged in the business of furnishing telephone communications, exclusively to rural areas, or to rural areas and cities and towns provided that any such city or town has a population of eight hundred (800) persons or less; and provided further, that the average circuit miles for each station on the system is more than one and one-quarter (1 1/4) miles.

Class Three. Livestock, poultry and unprocessed products of both; stocks of merchandise of all sorts, together with furniture and fixtures used therewith, except mobile homes; the annual gross proceeds of underground coal mines; and all office or hotel furniture and fixtures.

Class Four. (a) All land, town and city lots, with improvements, and all trailers affixed to land owned, leased, or under contract or purchase by the trailer owner, manufacturing and mining machinery, fixtures and supplies, except as otherwise provided by the constitution of Montana, and except as such property may be included in Class Five, Class Seven or Class Eight.

(b) Mobile homes without regard to the ownership of the land upon which they are situated, except those held by a distributor or dealer of mobile homes as part of his stock in trade, and except as such property may be included in Class Eight.

Class Five. (a) All moneys and credits, secured or unsecured, including all state, county, school district and other municipal bonds, warrants and securities, without any deduction or offset; provided, however, that the terms "moneys and credits" as herein used shall not embrace the moneyed capital employed in the banking business by any banking corporation or individual in this state.

(b) All poles, lines, transformers, transformer stations, meters, tools, improvements, machinery and other property used and owned by co-operative rural electrical and co-operative rural telephone associations organized under the laws of Montana except those within the incorporated limits of a city or town in which less than ninety-five per

cent (95%) of the electric consumers and/or telephone users are served by a co-operative organization, and as to the property enumerated in this subsection (b) within incorporated limits of a city or town in which less than ninety-five per cent (95%) of the electric consumers or users will be served by a co-operative organization, such property shall be put in Class Two.

(c) All unprocessed agricultural products either on the farm or in storage, irrespective of whether said products are owned by the elevator, warehouse or flour mill owner or company storing the same, or any other person whomsoever, except all perishable fruits and vegetables in farm storage and owned by the producer, and excepting livestock and poultry and the unprocessed products of both.

(d) The dwelling house, and the lot on which it is erected, owned and occupied by any resident of the state, who has been honorably discharged from active service in any branch of the armed forces, who is rated one hundred per cent (100%) disabled due to a service-connected disability by the United States veterans' administration or its successors.

In the event of the veteran's death, the dwelling house, and the lot on which it is erected, so long as the widow remains unmarried and the owner and occupant of the property, shall remain within this classification.

Class Six. Property formerly included in this class is now classified by section 84-308, R.C.M. 1947.

Class Seven. (a) All new industrial property. New industrial property shall mean any new industrial plant, including land, buildings, machinery and fixtures which, in the determination of the state department of revenue, is used by a new industry during the first three (3) years of operation not having been assessed prior to July 1, 1961, within the state of Montana. New industry shall mean any person, corporation, firm, partnership, association, or other group which establishes a new plant or plants in this state for the operation of a new industrial endeavor, as distinguished from a mere expansion, reorganization, or merger of an existing industry or industries. Provided, however, that new industrial property shall be limited to industries that manufacture, mill, mine, produce, process or fabricate materials, or do similar work in which capital and labor are employed and in which materials unserviceable in their natural state are extracted, processed or made fit for use or are substantially altered or treated so as to create commercial products or materials; and in no event shall the term new industrial property be included to mean property used by retail or wholesale merchants, commercial services of any type, agriculture, trades or professions. And provided further, that new industrial property shall not be

included to mean property which is used or employed in any industrial plant which has been in operation in this state for three (3) years or longer. Any person, corporation, firm, partnership, association or other group seeking to qualify its property for inclusion in this class shall make application to the state department of revenue in such manner and form as may be required by said department.

Class Eight. Any improvement on real property, trailers affixed to land or mobile home belonging to any person who qualifies under any one or more of the hereinafter set forth categories, valued at not more than seventeen thousand five hundred dollars ($17,500), which is owned or under a contract for deed, and which is actually occupied by:

(1) a widow sixty-two (62) years of age or older, whether with or without minor dependent children, who qualifies under the income limitations of (4), or

(2) a widower sixty-five (65) years of age or older, whether with or without minor dependent children, who qualifies under the income limitations of (4), or

(3) a widow with minor or dependent children regardless of age, who qualifies under the income limitations of (4), or

(4) a recipient of retirement benefits whose income from all sources is not more than four thousand dollars

($4,000) for a single person and five thousand two hundred dollars ($5,200) for a married couple per annum. Provided, further, that one who applies for classification of property under this class must make an affidavit to the state department of revenue on a form as may be provided by the state department of revenue supplied without cost to the applicant, as to his income, if applicable, as to his retirement benefits, if applicable, or, as to his marital status, if applicable, and to the fact that he or she actually occupies such improvements with right of the county welfare board to investigate the applicant, on the completion of the form, as to answers given on the form. Provided, further, that the value of said property shall not increase during the life of the recipient of retirement benefits or widow or widower covered under this class. For purposes of the affidavit required for classification of property under this class, it shall be sufficient if the applicant signs a statement swearing to or affirming the correctness of the information supplied, whether or not the statement is signed before a person authorized to administer oaths, and mails the application and statement to the department of revenue. This signed statement shall be treated as a statement under oath or equivalent affirmation for purposes of section 94-7-203, R.C.M. 1947, relating to the criminal offense of false swearing.

Class Nine. The annual gross proceeds of coal mines using the strip mining method.

Class ~~Nine~~-Ten. All property not included in the ~~eight~~ ~~(8)~~ nine (9) preceding classes."

Section 14. Section 84-302, R.C.M. 1947, is amended to read as follows:

"84-302. Basis for imposition of taxes. As a basis for the imposition of taxes upon the different classes of property specified in the preceding section, a percentage of the true and full value of the property of each class shall be taken as follows:

Class 1. One hundred per cent (100%) of its true and full value.

Class 2. Twenty per cent (20%) of its true and full value.

Class 3. Thirty-three and one-third per cent (33 1/3%) of its true and full value.

Class 4. Thirty per cent (30%) of its true and full value.

Class 5. Seven per cent (7%) of its true and full value.

Class 6. As specified in section 84-308, R.C.M. 1947.

Class 7. Seven per cent (7%) of its true and full value.

Class 8. Fifteen per cent (15%) of its true and full

value.

Class 9. ~~Forty--per--cent--(40%)~~ FORTY-FIVE PER CENT (45%) of its true and full value.

Class 10. Forty per cent (40%) of its true and full value."

Section 15. Section 84-5402, R.C.M. 1947, is amended to read as follows:

"84-5402. Net proceeds tax--statement of yield, penalty, extension of time. Every person, partnership, corporation, or association, engaged in mining, extracting or producing from any quartz vein or lode, placer claim, dump or tailings, or other place or sources whatever, precious stones or gems, gold, silver, copper, ~~coal,~~ lead, petroleum, natural gas, or other valuable mineral, except coal, must on or before the thirty-first day of March of each year make out a statement of the gross yield of the above-named metals or minerals from each mine owned or worked by such person, corporation or association during the year preceding the first day of January of the year in which such statement is made, and the value thereof. Such statement shall be in the form prescribed by the state department of revenue, and must be verified by the oath of such person or the manager, superintendent, agent, president or vice-president of such corporation, association or partnership, and must be delivered to the state department

of revenue on or before the thirty-first day of March. Such statement shall show the following:

1. The name and address of the owner or lessee or operator of the mine, together with the names and addresses of any and all persons, corporations, or associations owning or claiming any royalty interest in the mineral product of such mine or the proceeds derived from the sale thereof, and the amount or amounts paid or yielded as royalty to each of such persons, corporations or associations during the period covered by the statement.

2. The description and location of the mine.

3. The number of tons of ore, barrels of petroleum, cubic feet of natural gas or other mineral products or deposits extracted, produced, and treated or sold from the mine during the period covered by the statement.

4. The amount and character of such ores, mineral products or deposits, and the yield of such ores, mineral products or deposits from such mine in constituents of commercial value; that is to say, the number of ounces of gold or silver, pounds of copper or lead, ~~tons--of--coal,~~ barrels of petroleum or other crude or mineral oil, cubic feet of natural gas or other commercially valuable constituents of said ores or mineral products or deposits measured by standard units of measurement, yielded to such person, corporation or association so engaged in mining, and

to said royalty holders and each of them, if any, during the period covered by the statement.

5. The gross yield or value in dollars and cents.

6. Actual cost of extracting same from mine.

7. Actual cost of transporting to place of reduction or sale.

8. Actual cost of reduction or sale.

9. Actual cost of marketing the product and conversion of same into money.

10. Cost of construction, repairs and betterments of mines, and cost of repairs and replacements of reduction works.

11. The assessed valuation of reduction works for the calendar year for which such return is made.

12. Actual cost of fire insurance and workmen's compensation insurance.

If any person shall fail, neglect or refuse to file the statement required by this section within the time required, or within any extended period of time allowed, the state department of revenue when transmitting the net proceeds valuations to the counties shall inform the county assessor of such failure, neglect or refusal and the county assessor in addition to the net proceeds tax, if any, shall assess a penalty of 2/3 of 1% of such tax for each calendar month or fraction thereof that the required statement is not filed,

deducting therefrom any moneys collected by the state department of revenue required by this section. The state department of revenue shall assess a penalty of $25 for each calendar month or fraction thereof, not exceeding four months, that the required statement is not filed, to be collected by the state department of revenue and deposited to the credit of the general fund of the state of Montana.

The state department of revenue shall, upon a showing of reasonable cause, grant an extension of time for filing the statement required by this section. This penalty shall be in addition to penalties provided in section 84-5410."

Section 16. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 17. Repealer. Sections 84-1301 through 84-1309, ~~84-1309.1,~~ 84-1310, and 84-1311, R.C.M. 1947, are repealed.

-End-